

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE NATIONAL PRESCRIPTION | MDL No. 2804
5 OPIATE LITIGATION |
6 This Document Relates to: | Case No. 17-MD-2804
7 The County of Summit, Ohio, |
8 et al., v. |
9 Purdue Pharma L.P., et al. | Hon. Dan A. Polster
10 Case No. 17-op-45004 |
11 The County of Cuyahoga v. |
12 Purdue Pharma L.P., et al. |
13 Case No. 18-op-45090 |
14 City of Cleveland, Ohio v. |
15 Purdue Pharma L.P., et al. |
16 Case No. 18-op-45132 |

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18 Monday, December 3, 2018

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20 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
21 CONFIDENTIALITY REVIEW

22 - - -

23 Videotaped deposition of ROBERT BROWN, held
24 at Foley & Lardner LLP, One Biscayne Tower, 2
25 Biscayne Boulevard, Suite 1900, Miami, Florida,
 commencing at 9:26 a.m., on the above date,
 before Susan D. Wasilewski, Registered
 Professional Reporter, Certified Realtime
 Reporter and Certified Realtime Captioner.

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E X H I B I T S

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2 THE VIDEOGRAPHER: We are now on the record.

3 My name is Jeff Fleming, I'm a videographer for
4 Golkow Litigation Services. Today's date is
5 December 3rd, 2018. The time is 9:26 a.m.

6 This video deposition is being held in
7 Miami, Florida, in the matter of National
8 Prescription Opiate Litigation, MDL Number 2804,
9 for the United States District Court, Northern
10 District of Ohio, Eastern Division.

11 The deponent is Robert Brown. Counsel will
12 be noted on the stenographic record.

13 The court reporter is Susan Wasilewski and
14 will now swear in the witness.

15 THE COURT REPORTER: Sir, would you raise
16 your right hand?

17 Do you solemnly swear or affirm the
18 testimony you're about to give will be the truth,
19 the whole truth, and nothing but the truth?

20 THE WITNESS: I do.

21 THE COURT REPORTER: Thank you.

22 MR. NOVAK: Before we begin, I'd like to
23 just put the appearance of counsel on the record.
24 This is Paul Novak and also Attorney Tiffany
25 Ellis of the Weitz & Luxenberg firm on behalf of

1 the Track One Plaintiffs pursuant to a notice of
2 deposition that was issued for the deposition
3 today under the Federal Rules of Civil Procedure
4 and the deposition protocol.

5 Can the other counsel place their appearance
6 on the record?

7 MR. MATTHEWS: Good morning. It's James
8 Matthews of Foley & Lardner for Anda, Inc., and
9 for the witness.

10 MS. LUND: Juli Ann Lund from Williams &
11 Connolly for Defendant Cardinal Health.

12 MS. HERRERA: Sujey Herrera from Reed Smith
13 for Defendant AmerisourceBergen Drug Corporation.

14 MR. NOVAK: And counsel on the phone want to
15 place their appearance on the record?

16 MR. HENNESSY: Good morning. This is Sean
17 Hennessy from Arnold & Porter on behalf of the
18 Endo and Par Pharmaceutical defendants.

19 MS. BORSAY: Good morning. Casteel Borsay
20 with Jones Day on behalf of Defendant Walmart.

21 MS. CHARLES: Good morning, Amber Charles
22 with Covington & Burling on behalf of Defendant
23 McKesson Corporation.

24 MR. NOVAK: Any other counsel on the phone?

25 (No response.)

1 MR. NOVAK: All right. We've marked as
2 Deposition Exhibit Anda-Brown 1 the Notice of
3 Videotaped Deposition for today, really more for
4 record purposes than anything else, but I'll hand
5 a copy to counsel if they need or want it.

6 (Anda-Brown Exhibit 1 was marked for
7 identification.)

8 ROBERT BROWN, called as a witness by the
9 Track One Plaintiffs, having been duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. NOVAK:

13 Q. Good morning, Mr. Brown. Could you state
14 your full name for the record?

15 A. Robert I. Brown.

16 Q. Okay. And where do you currently live?

17 [REDACTED]

18 [REDACTED]

19 Q. Okay. How long have you lived at that
20 address?

21 A. Since December 2013.

22 Q. I'd like to start by having you talk a
23 little bit about your educational background and
24 employment history prior to working at a time for
25 Anda.

1 Can you give me a summary of just your
2 educational background?

3 A. Okay. I have a bachelor of arts degree from
4 the University of Michigan majoring in history and
5 political science, graduating December 1976, and I
6 have a law degree from Wayne State University law
7 school in Detroit, graduating December 1986.

8 Q. Okay. Can you give me a brief description
9 of any employment work you had in the pharmaceutical
10 industry prior to working for Anda?

11 A. Prior to working for Anda, I was the senior
12 vice president and general counsel for the Harvard
13 Drug Group that was headquartered in Livonia,
14 Michigan, and I was at that position from April 2006
15 to April 2012.

16 Q. Okay. Is it fair to say that the work at
17 the Harvard Drug Group was your only work in the
18 pharmaceutical industry prior to your time at Anda?

19 A. Yes.

20 Q. Okay. And what did you do -- or actually,
21 I'll start over.

22 Can you describe for me generally what type
23 of company Harvard Drug Group was?

24 A. Harvard Drug Group was a secondary supply
25 wholesaler to the pharmaceutical industry primarily

1 pharmacies, as well as some other types of companies
2 that sold pharmaceutical products and long-term care
3 and some -- a few hospitals.

4 Q. Okay. In the beginning of that answer you
5 used the term "secondary supply wholesaler."

6 A. Correct.

7 Q. Can you give me a description as to what
8 that term means?

9 A. Yes. In the pharmaceutical distribution
10 industry there are three major primary wholesalers,
11 AmerisourceBergen, McKesson and Cardinal that
12 probably account for somewhere from 92 to 94 percent
13 of the business that is conducted in wholesale
14 pharmaceuticals. Secondary, there are a number of
15 secondary suppliers that assist their customers who
16 may need items that their primary wholesaler does
17 not carry at a particular time or there may be a
18 certain brand -- brand is a bad term. I was going
19 to say SKU but I don't know if that translates well.
20 But you have multiple manufacturers who make a
21 certain product in most cases and maybe the primary,
22 you know, carries three of those manufacturers,
23 maybe a secondary carries a fourth that is desirable
24 to certain customers of that pharmacy, so they'll
25 purchase from a secondary supplier for items that

1 they may not be able to get from their primary
2 wholesaler.

3 Q. Okay. I think we'll explore that a little
4 more later --

5 A. Okay.

6 Q. -- this morning.

7 A. Okay.

8 Q. But I appreciate your answer. By the way, I
9 usually give a few instructions at the beginning of
10 the deposition, which I just completely skipped
11 over, so I'll do them now.

12 A. Okay.

13 Q. I want to make sure that when I ask
14 questions, make sure that your answer is verbal.
15 It's difficult for the reporter to transcribe
16 nonverbal answers, although they will get picked up
17 on the videotape.

18 Secondly if there is any question that I ask
19 that you don't understand or feel needs to be
20 rephrased, let me know, and I'll try to rephrase it
21 in a manner that makes sure we're both on the same
22 wavelength.

23 We've talked a little bit about your
24 experience at Harvard Drug Group. Was Harvard Drug
25 acquired at some point?

1 A. Well, I guess at what -- acquired and at
2 what time, because there were several transactions
3 both before I arrived at Harvard and after I left.
4 So I guess I'm trying to get some clarification on
5 time period or, you know -- because --

6 Q. Let me -- I'll ask a different question.

7 A. Okay.

8 Q. Is Harvard Drug Group still in existence
9 today?

10 A. My understanding is that when Cardinal
11 Health purchased Harvard, I believe in 2014, and I
12 believe that the name Harvard is no longer utilized
13 in the industry. I think it was merged into Belco,
14 I believe.

15 Q. Okay.

16 A. But that was -- I -- just to clarify, that
17 was after I left Harvard.

18 Q. Yeah. Can you give a general description as
19 to what your responsibilities were at Harvard Drug?

20 A. They were varied because it was senior vice
21 president of business development and general
22 counsel, so I was responsible for external
23 acquisitions, we did five when I was there, and I
24 was responsible for finding the acquisitions and
25 vetting them and organizing the due diligence

1 process and working with the outside counsel and
2 accountants to -- to finalize the agreements and
3 help with the integration of those companies.

4 I was responsible for all company internal
5 agreements that dealt with vendors, with customers,
6 with credit. I was responsible for -- we had
7 several offices throughout the country. I was
8 responsible for various leases. I was responsible
9 for managing our veterinary distribution -- First
10 Vet, which was a division of the company.

11 And, really, you know, worked -- we also had
12 a private label company that was incorporated into
13 Harvard called Major Pharmaceuticals. I was
14 involved with the contracts that were there. I
15 worked with pretty much every department, including
16 compliance.

17 Q. Okay. That was where I was going next.

18 A. Okay.

19 Q. Can you describe for me what your
20 responsibilities at Harvard Drug were as it related
21 to compliance?

22 A. It was overall working -- working with the
23 compliance department and external counsel who
24 compliance -- the compliance department really had
25 more of the interface, direct interface, because

1 they had been there -- they had all been people that
2 had been worked with before I got there, but
3 basically, you know, helping -- assisting when it
4 was necessary or when it was appropriate for me to
5 be involved with any contracts they had, any product
6 registrations, through Major, through any -- and
7 that role changed, I will tell you.

8 When I first got there it was more, you
9 know, legal working with customers. As time went
10 on, and particularly after the -- a consent judgment
11 following -- or consent following a suspension order
12 was issued, I was -- I was the main person in
13 working with both the DEA and the administrative law
14 judge in ensuring that we got our license restored
15 and that we developed processes and procedures to
16 ensure that we would not have those issues again
17 with respect to controlled substances.

18 Q. Okay. The suspension to which you referred
19 in the last part of that answer, was issued by the
20 DEA against Harvard Drug?

21 A. Yes. I mean, signed by an administrative
22 law judge in June 2010.

23 Q. Okay. And can you describe for me the
24 circumstances which led to the DEA issuing a
25 suspension of Harvard Drug?

1 A. At -- I'll try to put it in some context,
2 because this was something that was taking place
3 throughout the industry with the awareness of opioid
4 distribution, so-called pill mill, both in, you
5 know, in Florida and other places, and Harvard was
6 one of the distributors that was probably, you know,
7 caught, you know, like most of the industry, where
8 probably didn't, in hindsight, didn't probably have
9 the diligence that certainly has now in terms of
10 vetting customers and really, you know, examining
11 the types of customers and also the volumes of
12 controlled substances that were being sent or
13 distributed to pharmacies and, in some cases,
14 physicians as well.

15 Q. Were there particular types of controlled
16 substances that were the subject of the DEA's
17 suspension order against Harvard Drug?

18 A. It was primarily oxycodone. There was some
19 hydrocodone products, but it was primarily
20 oxycodone.

21 Q. And the DEA concluded that Harvard Drug
22 didn't exercise the requisite amount of due
23 diligence in adhering to suspicious order monitoring
24 requirements as it related to oxycodone?

25 MR. MATTHEWS: Objection.

1 MS. LUND: Objection.

2 A. I think it was more -- it wasn't just
3 suspicious orders. It was an overall -- I would say
4 an overall due diligence in terms of customers,
5 customer vetting, in terms of, you know, knowing --
6 knowing your customer. And while that isn't, you
7 know -- it may not be written that is a require --
8 that is something that is a requirement, to know
9 your customer, and I think they concluded that there
10 were certain customers that the company knew or
11 should have known required additional scrutiny.

12 Q. Okay. How is it that you came to work for
13 Anda?

14 A. The way it worked was Harvard was acquired
15 by a company called Court Square Partners. It was a
16 private equity firm. The CEO, who had hired me, and
17 the president had retired and basically they brought
18 in a new executive team and they replaced pretty
19 much all the prior senior management. I was
20 retained as senior -- as a general counsel, but they
21 had -- they were coming to a point where, you know,
22 they were looking into the future to -- private
23 equity, you look to sell the company, and, you know,
24 if you can eliminate people that -- salaries, I
25 don't say people, positions, you know, it probably

1 excels better and they made a determination they
2 didn't really need a general counsel, but the CEO
3 of -- who was the CEO, Terry Haas, had told Jay
4 Levine, who was the former president of Harvard,
5 look, Robert is doing a great job for us, I don't
6 want to see him out of a job, and that he knew that
7 Jay was -- had a very good relationship with Anda
8 and with Al Paonessa, who was the president of Anda
9 and he said, why don't you explore, even though Anda
10 was a competitor, why don't you see if they need
11 somebody who can do this.

12 And it turned out that Anda was looking for
13 a director of regulatory compliance focusing on DEA
14 and controlled substance issues, and because, as I
15 mentioned, once we had the suspension, I kind of
16 became immersed in working with our DEA counsel, and
17 our local counsel with respect to the administrative
18 law judge, as well as the DEA directly, and
19 internally to develop better systems and processes
20 so that we could get our license back, which we did,
21 and they were looking for someone to specialize in
22 that area, and they interviewed me and I began work
23 there on -- the end of April 2012.

24 Q. Okay. Who was it at Anda who interviewed
25 you for the position?

1 A. It was -- there was a phone interview with
2 Al Paonessa, who was the president, and Michael
3 Cochrane who was the executive director of
4 regulatory compliance. He was responsible for
5 licensing, for the operations of -- the compliance
6 operations of all the warehouses, which at that time
7 were two. He had all the different responsibilities
8 and he really wanted somebody to focus on the
9 controlled substance issues.

10 So Allen -- Michael interviewed me by phone
11 and then in my in-person interview, Al and Patrick
12 Cochrane, who was the Vice President of Operations,
13 and I think it was some of the senior sales and
14 purchasing executives. It turned out that the day I
15 came down for my interview, Michael's son was born
16 and so he wasn't able to attend my interview.

17 Q. Okay. In the interview process, were there
18 any particular responsibilities that were conveyed
19 to you as the types of things you would be working
20 on?

21 A. Well, primarily to ensure that we were
22 selling -- basically to ensure that we were selling
23 the right products to the right customers and being
24 able to vet -- having enough information on each
25 customer to have systems in place to look at each

1 customer and determine are these the customers that
2 we -- that we need to sell to and what are we
3 selling to them. That was the basic responsibility
4 that I was told.

5 Q. And was there a particular emphasis, as you
6 were interviewing for the position, on selling the
7 right product to the right customer as it related to
8 opioids?

9 A. Yes. It was controlled substances, so
10 making determinations, should we sell controls at
11 all, are these the right -- to these customers, you
12 know, on a customer by customer basis, should we
13 sell controls, you know, what quantities. If we
14 agree that we're satisfied, what quantities, what
15 products and really make sure that we had systems in
16 place to look at each customer and make a good
17 determination to protect the company.

18 Q. As you were exploring the prospect of
19 working for Anda, did they describe to you, that is
20 representatives of Anda, any particular regulatory
21 challenges that they faced?

22 MR. MATTHEWS: Objection.

23 A. I mean, they really didn't -- that did not
24 come up in the discussions that we had, no.

25 Q. Did anyone at Anda discuss with you

1 outstanding regulatory compliance issues that the
2 company had with the DEA?

3 A. Not during my interview process.

4 Q. Okay. What else did you do to familiarize
5 yourself with Anda prior to taking the position?

6 A. Basically, you know, learned about the
7 company, went on the website, looked at, you know,
8 where -- what their position in the industry was,
9 who some of the key people were, some of the --
10 found out some of the customers. Because Harvard
11 and Anda did share customers. Now, again, I mean,
12 so I wasn't looking for sales information or pricing
13 or any of that, but just to understand, you know,
14 the type of business that Anda had.

15 Q. Now, you had earlier characterized Harvard
16 Drug as a secondary wholesaler.

17 A. Correct.

18 Q. Is that an accurate description of Anda as
19 well?

20 A. Yes, it is.

21 Q. Okay. And in particular, was it your
22 understanding coming into the position at Anda that
23 they were a secondary supplier, for the most part,
24 as it related to opioid products?

25 MR. MATTHEWS: Objection.

1 A. Yes. Yes.

2 Q. Okay. Prior to your time -- I'll start
3 over.

4 When you were at Harvard Drug, did you
5 participate in any industry trade associations that
6 dealt with the wholesale distribution of
7 pharmaceutical products?

8 A. I'm trying to think of the time frame. I
9 certainly read up on different items. I did go to
10 some industry conferences and also I did -- because
11 again, my role was multifaceted. I also went to
12 different conferences that were learning about
13 different aspects of the pharmaceutical industry in
14 general, and in many cases looking for what would be
15 a, you know, potential add-on for the company and
16 maybe a little bit out of the traditional, you know,
17 pharmaceutical distribution but maybe like to either
18 different products or different customers.

19 So yes, I did go to industry conventions or
20 seminars and I also read up on these and I -- and
21 also after we had our issues with the DEA, I did go
22 to some industry conferences to -- from HDA to
23 become more conversant with what others in the
24 industry were doing as well as what the HDA had
25 recommended and what they were doing with respect to

1 DEA.

2 Q. Okay. You referred to HDA in that answer.

3 Can you tell me what HDA is?

4 A. Well, it's now called -- it's now HDA,
5 Health Distribution Association. It's the major
6 industry representative. It used to be HDMA, Health
7 Distribution and Management Association, but it's
8 now primarily focused on distributors and it's based
9 outside of Washington, D.C.

10 Q. Okay.

11 MR. NOVAK: I'll have this marked.

12 (Anda-Brown Exhibit 2 was marked for
13 identification.)

14 BY MR. NOVAK:

15 Q. We've had a document marked as Anda --
16 Deposition Exhibit Anda-Brown 2?

17 A. Okay.

18 Q. And the document is comprised of both an
19 e-mail and an attachment. The e-mail sent to Robert
20 Brown from Michael Cochrane with -- bearing the
21 Bates number Anda_Opioids_MDL 85677, and then the
22 attachment is a multipage document bearing the Bates
23 number Anda_Opioids_MDL 85679 and continuing through
24 85690.

25 A. Uh-huh.

1 Q. Mr. Brown, is this an e-mail and attachment
2 that you would have received during your employment
3 with Anda from Michael Cochrane?

4 MR. MATTHEWS: Objection.

5 A. I -- based on what I'm seeing, it appears
6 that's the case. I don't have -- I don't have
7 firsthand recollection of this, but yes, it -- you
8 know, it's -- it look -- it certainly appears that I
9 was -- that Michael sent me this survey and I'm sure
10 I reviewed it, if I -- although again, I don't
11 have -- I don't have firsthand recollection at
12 this -- as we sit here today, but it certainly looks
13 like something that I would have received.

14 Q. Okay. Now, at the top, in the portion of
15 the document that is the e-mail from Mr. Cochrane to
16 you, it simply says: See below, we should go.

17 And that appears to be referencing a
18 potential DEA-HDMA meeting that HDMA was attempting
19 to schedule.

20 A. Uh-huh.

21 Q. Do you recall whether you actually attended
22 the meeting that's referenced in this document?

23 A. You know, I don't recall and to be -- again,
24 I'm -- I don't really want to speculate, but I'm
25 just not sure if that meeting was ever actually

1 held.

2 Q. Okay. Let me ask you more generally. What
3 was your understanding or, well, actually, I'll take
4 a step back and ask a different question.

5 During your time at Anda, did you
6 participate in any HDMA regulatory committees?

7 A. Not committees. I believe Michael was on
8 those, so I don't -- I don't believe I participated
9 on the committees themselves.

10 Q. Okay. In addition to committees, HDMA
11 provided conferences to educate industry
12 participants in regulatory compliance matters?

13 A. Yes, they did.

14 Q. Okay. Did you participate in those?

15 A. Yes.

16 Q. Okay. Did you review HDMA publications
17 designed to educate industry participants about
18 regulatory compliance?

19 A. Yes.

20 Q. Were there particular compliance
21 publications that HDMA issued that you were
22 knowledgeable of?

23 A. I can't recall offhand but I -- I do know
24 that -- I don't know if it was publications or
25 e-mails or, you know, certain items that were

1 distributed to industry, and yes, I would have -- I
2 would have reviewed those. I'm not sure how to
3 quite characterize them but yes, I certainly did
4 review various HDMA recommendations, pronouncements,
5 et cetera.

6 Q. Okay. If you turn to the page of Deposition
7 Exhibit Anda-Brown 2, bearing the Bates number
8 85679.

9 A. Okay.

10 Q. There is a reference in the first bullet
11 point to a document titled: HDMA Industry
12 Compliance Guidelines, Reporting Suspicious Orders
13 and Preventing Diversion of Controlled Substances.

14 Do you see that reference?

15 A. Yes, I do.

16 Q. Does that refresh your recollection as to
17 one of the publications that, issued by HDMA, that
18 you would have reviewed in your time at Anda?

19 A. I can't say specifically. I mean, I did
20 review a lot of industry publications -- documents
21 and so on. I mean, I can't particularly say. I
22 mean, this was -- this looks like it was, you know,
23 June 1st, 2011, which was before I got to Anda.
24 I -- I mean I just -- I don't know.

25 Q. Okay. But your understanding is that HDMA

1 provided these industry guidelines to provide
2 assistance to all the industry participants as it
3 related to distribution and regulatory compliance?

4 MR. MATTHEWS: Objection.

5 MS. LUND: Objection.

6 Q. You can answer.

7 MR. MATTHEWS: You can answer.

8 A. My understanding is yes.

9 Q. And you participated in industry conferences
10 from time to time?

11 A. Yes.

12 MR. NOVAK: We'll have this marked as
13 Anda-Brown 3.

14 (Anda-Brown Exhibit 3 was marked for
15 identification.)

16 BY MR. NOVAK:

17 Q. We've had marked as deposition
18 Exhibit Anda-Brown 3, a document that appears to be
19 an e-mail from Robert Brown to a number of different
20 participants, which also forwards an HDMA weekly
21 digest. The Bates number for the document is
22 Anda_Opioids_MDL 598068 through 598071.

23 And let me ask just a couple general
24 questions as it relates to Anda-Brown Exhibit 3.
25 The first one relates to the weekly digest. Were

1 those reports that you received on a weekly basis
2 during your time as the director of regulatory
3 compliance at Anda?

4 A. Yes.

5 Q. And was there useful information conveyed on
6 those as to things going on in the industry?

7 MR. MATTHEWS: Objection.

8 A. Yes.

9 Q. Okay. In particular, if you look at
10 Anda-Brown 3, the page ending in 598069, there is
11 reference -- there is reference at the top of the
12 page to a 2015 distribution management conference
13 and expo to explore critical supply and chain
14 topics.

15 Do you see that reference?

16 A. Yes.

17 Q. Okay. And under that there are a number of
18 what are referred to as session highlights. Do you
19 see that reference?

20 A. Yes.

21 Q. One of which is a bullet point entitled:
22 Applying ARCOS Data Analysis to Suspicious Order
23 Monitoring Programs.

24 Do you see that?

25 A. Yes.

1 Q. Do you know whether you attended this
2 particular HDMA distribution management conference?

3 A. Yes, I did.

4 Q. Okay.

5 THE VIDEOGRAPHER: Perfect.

6 Q. Did you attend the session of the
7 distribution management conference dealing with the
8 application of ARCOS data to suspicious order
9 monitoring programs?

10 A. I can't recall specifically, but I would --
11 without getting into speculation, I believe I would
12 have, I just can't specifically recall. Sitting and
13 doing, but yes, that would have been something I
14 would have done.

15 Q. Well, let me ask more generally. Can you
16 describe for me your understanding as to how ARCOS
17 data might be used for purposes of facilitating
18 compliance with suspicious order monitoring
19 requirements?

20 A. What the DEA requires is that orders of
21 Schedule II and Schedule III narcotics are
22 submitted, each distributor is -- manufacturer
23 and -- I'm trying to remember -- certainly,
24 actually, pharmacy are required to submit those
25 reports to the DEA and the DEA uses the data the way

1 they would use it and, you know, if -- I don't
2 really want to speculate because the DEA doesn't,
3 frankly has not in the past shared a lot of
4 information about the ARCOS data that they receive
5 based on, I guess, what they claim are privacy
6 concerns, so they haven't really shared, you know,
7 the exact way they use it, but certainly I would --
8 by getting information of what products are sold to
9 which customers and which and how -- and the
10 quantities and by how many sources, you know, I'm
11 sure that that -- I would think that would help them
12 in some of their analysis in determining trends in
13 the industry and maybe specific customers, but
14 again, I would say that some of that is speculation
15 only because they don't share the specifics of how
16 they utilize it.

17 Q. Okay. My question, I think, is a little
18 different. What I'm asking is are there particular
19 uses of ARCOS data that Anda would use for purposes
20 of facilitating suspicious order monitoring
21 compliance?

22 A. I would certain -- certainly the information
23 that is used in -- to prepare the ARCOS reports is
24 absolutely utilized. I -- I'm not sure I would
25 characterize it that it would be the report itself.

1 It's really the data and the information that goes
2 into those: Sales reports, sales history, you know,
3 for each customer, per product, per what -- yes, and
4 that -- and some of that information is shared in
5 ARCOS but it's actually a lot broader information
6 that Anda would use.

7 Q. During the time that you were employed at
8 Anda, did the ARCOS data to which you had access,
9 was it solely the data supplied by Anda?

10 A. Yes.

11 Q. Did you have access to ARCOS data supply --
12 let me step back for a second. I'll ask a different
13 question.

14 At various times during your employment at
15 Anda, they were a subsidiary of different drug
16 manufacturers. Is that correct?

17 A. Yes.

18 Q. During the time, can you go through the
19 different manufacturers who owned Anda?

20 A. To the best of my recollection, and there
21 was a little -- when I got there, Watson
22 Pharmaceuticals owned Anda. At some point, I want
23 to say maybe 2013, but I'm not sure, Watson bought
24 Actavis, but the Actavis name became the company --
25 you know, the overriding company, I guess, for

1 brands -- branding, and again, not -- not to be
2 confused with brand drugs, but the brand -- it was a
3 generic company.

4 And then in 2013 -- maybe 2013, 2014,
5 Allergan bought Actavis, and they used that name as
6 the encompassing, and Allergan was a brand
7 manufacturer and was buying -- you know, was getting
8 generics. It was buying a generic -- bulk buying
9 the product.

10 Q. Okay.

11 A. And then, well, of course, before I left,
12 Teva then bought -- in 2016 Teva bought -- well,
13 they bought -- they bought the generic products from
14 Allergan and then they also acquired Anda.

15 Q. Okay. Before we went into that chain of
16 ownership, we were talking about ARCOS data. During
17 the time you were employed at Anda, did you have
18 access to the ARCOS data submitted by any of the
19 manufacturers that you just identified?

20 A. No.

21 Q. Okay. So you didn't have access to Watson's
22 ARCOS data?

23 A. No.

24 Q. And not Actavis's?

25 A. No.

1 Q. Or Teva's?

2 A. No.

3 Q. Or Allergan's?

4 A. Correct.

5 MR. NOVAK: Okay. Why don't we take our
6 first break.

7 THE VIDEOGRAPHER: Off the record, 10:06 a.m.

8 (Recess from 10:06 a.m. until 10:25 a.m.)

9 THE VIDEOGRAPHER: On the record, 10:25 a.m.

10 BY MR. NOVAK:

11 Q. Okay. We're back on the record. Mr. Brown,
12 we talked a little bit about the discussions you had
13 with Anda employees and officers in the interview
14 process. We didn't really go through what your job
15 responsibilities actually were when you began with
16 the company. Can you describe those for me?

17 A. There were, under regulatory compliance that
18 Michael, Michael Cochrane was executive director,
19 there was a licensing division or subset, and a
20 controlled substance subset, and I was responsible
21 for the controlled substance division of, if you
22 will, of regulatory compliance and when I came there
23 were two people who were analysts who reported to
24 me, and then the other -- the licensing -- the
25 people they reported to Emily Schultz.

1 Q. Okay. The people who reported to you were
2 who?

3 A. Sabrina Solis and Mary Barber.

4 Q. And what were your duties managing that
5 controlled substance area of compliance?

6 A. I mean, the overall responsibility was to,
7 one, review every customer who applied for -- to
8 purchase controlled substance, substances. Those
9 were new -- new control customers.

10 The other was to review current customers'
11 purchases of controlled substances in terms of what
12 they were buying, how much, all different -- all
13 different factors to ensure that we really had a
14 good handle on each customer buying controls.

15 The next part was if a customer, and we did
16 have limits on the amount of controls that a
17 customer could purchase in a given month and they
18 were by family, so, for example, alprazolam, if it
19 was 1,000 alprazolam a month, that would mean it
20 didn't matter if it was two milligram, one
21 milligram, .5 milligram, it was 1,000. So we would
22 get requests from customers saying, you know, I'd
23 like to purchase more alprazolam, I've reached --
24 I'd like to raise my limits, so we would analyze
25 each one of those requests because they were done on

1 an individual basis based on the -- based on
2 information that a customer would submit to justify
3 why they would want a limit increase, and so those
4 are the kind -- those are the kinds of things that
5 we would do.

6 And, yeah, those were primarily -- it was
7 really customer diligence at all different levels.

8 Q. Okay. In that answer you said you would
9 analyze each one of the requests of a customer to
10 increase their control limit.

11 A. Uh-huh.

12 Q. In answering that way, did you mean you
13 personally or someone within your team?

14 A. It would either be Sabrina, Mary or myself.
15 Each person in our team had authority to make
16 decisions, but they were always free -- if they
17 weren't sure, they were free to come to me and I
18 would be happy to be -- not -- I would be the person
19 responsible if they had a question, but they had --
20 they had authority. They were trained and Sabrina
21 had been with the company seven -- seven, eight
22 years by that time, Mary had been in compliance. I
23 mean, they were both there before I was but she had
24 a compliance background. So these were people that
25 were trained and were experienced to make decisions.

1 Q. Okay. So the basic areas that we've covered
2 so far that were your responsibilities when you
3 started at Anda, were addressing new control
4 customers, existing control customers, evaluating
5 increases in controlled limits, and analyzing each
6 of those requests.

7 A. Uh-huh.

8 Q. Were there additional responsibilities
9 beyond those?

10 MR. MATTHEWS: Objection.

11 A. There were -- again, we -- we had a -- we
12 had a very robust customer, due diligence customer
13 review system, and the other component of that was
14 an electronic system that would look at orders of
15 controls and every order that came in, you know,
16 would -- there would be orders that would be --
17 would be held for further review, and it was the
18 responsibility of our team to look at each order and
19 make a determination based on the information that
20 we had on the customer as to whether that was a
21 valid order, and if we needed more information, we
22 would do that. If we didn't, that's -- we would
23 make that decision. So that was -- that was the
24 other part of it.

25 And one other item that we would do on

1 probably a quarterly basis, and this was actually
2 Sabrina handled a lot of this because she was very
3 good with data, we would go over -- we would audit
4 let's say sales of -- pick a drug, hydrocodone, in a
5 particular region and we would look at each -- each
6 customer that was buying controls in that region and
7 see what the numbers were, what the -- what they're
8 buying, what strengths they were buying. We would
9 compare that to other regions of the country, and
10 then we would do other -- well, who are our highest
11 carisoprodol or oxycodone purchasers and let's look
12 at each one of those and then go back and see, what
13 do we have on these customers, what's been their
14 trends, et cetera. So we would spend a lot of time
15 really, you know, not just analyzing the day-to-day,
16 but going back, you know, several months or what
17 have you and making comparisons, because we had, you
18 know, all the sales data available that we were able
19 to look at for each customer.

20 Q. Okay. How about recordkeeping requirements,
21 were those part of your responsibilities as director
22 of regulatory compliance?

23 A. In -- could you --

24 MR. MATTHEWS: Objection.

25 A. Could you be a little more specific on what

1 records were -- you're referring to?

2 Q. Well, did you have any responsibilities, as
3 it related to, assuring that recordkeeping
4 requirements for regulatory compliance purposes were
5 adhered to?

6 A. I did not personally, if we're -- if you're
7 referring to required, if we're talking about CSOS
8 or 222 forms, no, I personally did not maintain
9 those.

10 Q. Okay.

11 A. Now, on other records --

12 Q. Well, actually, we're almost to the point
13 where we will get into some different records.

14 A. Okay.

15 Q. But I just want to be clear. If a DEA agent
16 came to Anda's offices and asked, who is responsible
17 for maintaining the records that we would like to
18 look at?

19 What would the company's answer be?

20 A. Michael Cochrane.

21 Q. Okay.

22 MR. MATTHEWS: During what time period?

23 A. During the time -- you're talking about
24 during the time I was there, correct?

25 Q. Yes. Yes.

1 A. And then -- well, then I -- during the time
2 I was there, Jay Spellman, assumed that role
3 afterward.

4 Q. Okay. Now, you've touched upon a couple
5 different types of electronic systems that were in
6 place or databases --

7 A. Uh-huh.

8 Q. -- at Anda and I'd like to go through a
9 whole array of --

10 A. Okay.

11 Q. -- different types of electronic systems.
12 One that you mentioned was CSOS. Can you provide a
13 description as to what you meant by that term?

14 A. Yes. CSOS was actually, in fact -- CSOS is
15 an electronic ordering system for control -- for
16 Schedule II controlled substances. A customer --
17 it's used two ways. One, it's used for a
18 distributor to purchase controls -- Schedule II
19 controls from a supplier, so, for example, you know,
20 if Anda is buying a product from Qualitest and it's
21 a Schedule II item, they will submit that order
22 electronically.

23 Likewise, if Jim's Pharmacy is -- submit --
24 is buying Schedule II products from Anda, they will
25 submit an electronic order that is maintained by

1 both the customer and the supplier and it's a record
2 and so it would go back and see each order and by
3 quantity.

4 Q. When did Anda implement a -- by the way,
5 what does CSOS stand for?

6 A. Controlled Substance Ordering System.

7 Q. Okay. Do you know when Anda implemented a
8 Controlled Substance Ordering System?

9 A. I don't. It was before -- before I arrived
10 there.

11 Q. Okay. Have you heard the term, TPS?

12 A. Yes.

13 Q. And what does TPS mean?

14 A. TPS maintains -- it's a -- it's a ingrown --
15 it's a home grown system at Anda that maintains
16 certain sales data, sales history, and also current
17 status of each customer. And it -- I mean, there
18 are many usages -- there are many uses to it. I can
19 also be, I didn't use it as much, you know, product
20 pricing. You can look at price of different
21 products, but it was widely used at Anda for many
22 purposes.

23 For compliance, for example, a -- you go to
24 the one page, you put in a customer number and when
25 the customer name, address, would come up, their

1 current state of licenses, both their state and
2 federal licenses, when they were -- when they
3 expired, it would talk about whether -- it would
4 show whether they were approved for controls, it
5 would show whether they -- what documents they
6 submitted.

7 So it would give a picture of that customer,
8 and then from there you could go into other screens
9 that would show what they have purchased by
10 noncontrols, by controls, by product, by strength.
11 So we used that extensively in our review and
12 analysis.

13 Q. Were due diligence materials, with respect
14 to particular customers, kept in the TPS system?

15 A. No, no. They were -- they were -- let me go
16 back. They were noted either in the first page,
17 where it would show customer questionnaire, yes, no,
18 I think dispense report -- I think dispense report
19 was on there. So it was noted whether they --
20 whether they were submitted, and there was a notes
21 section in TPS for each customer that whatever
22 determinations were made about a customer, whether
23 they were approved, not approved, whether they
24 were -- whether they were cut off, whether they --
25 limits were approved or not, or whether limit

1 increases were denied, that was in the notes
2 section, but the actual materials for each customer
3 were kept in a separate O drive by customer number,
4 which was the same customer number that was used in
5 TPS. The customer was assigned a number when they
6 became a customer of Anda.

7 Q. That's just the customer account number?

8 A. Correct -- well, it -- yeah, I think it --
9 yeah, it is the customer -- I was trying to remember
10 if it was the same account that was used for credit
11 and others. I think it was.

12 Q. You said the due diligence materials for
13 each customer are kept in the O drive.

14 A. Yes.

15 Q. Who is responsible for maintaining that?

16 A. Every time it -- sorry. We had -- again, we
17 had a set of different people who were analysts in
18 our group, so a customer would send in due diligence
19 to let's say, Mary, they send in a customer
20 questionnaire and dispense data. The first thing
21 that she would be -- if she received it on her desk,
22 the first thing she'd be responsible for is, one,
23 putting it in the customer's file on the O drive,
24 and then secondly, going into the TPS customer page
25 and indicating that it was received and the date it

1 was received.

2 So each analyst would be responsible for
3 ensuring that any time any customer information was
4 received, that it was placed in the O drive. It
5 could be as simple as an e-mail communication to a
6 customer, and response to -- response from the
7 customer. Whatever was there had to be placed
8 immediately. Those files had to be updated and that
9 was a requirement.

10 (Anda-Brown Exhibit 4 was marked for
11 identification.)

12 BY MR. NOVAK:

13 Q. We've had a document marked as Anda
14 Deposition -- or Anda-Brown Deposition 4, which is
15 comprised of a single page bearing the Bates stamp,
16 Anda_Opioids_MDL 546477, and then attached to that
17 is a document produced in native format bearing the
18 Bates number 546478.

19 We have brought an electronic copy of the
20 document that was produced in native format, if we
21 can put that on the screen, but I'll ask you a
22 quick -- a quick question with respect to just the
23 e-mail part.

24 Were these national accounts pipeline
25 documents something that were distributed to you on

1 a regular basis?

2 A. Yes.

3 Q. And would you in turn distribute them to
4 your staff?

5 A. Yes.

6 Q. What was their purpose?

7 A. One business -- one segment of Anda's
8 business was regional pharmacy chains or they could
9 be supermarkets that had pharmacies, and there was a
10 group called National Accounts. And National
11 Accounts were responsible for, you know,
12 obtaining -- of going to those -- that segment of
13 the pharmacy business and having meetings and trying
14 to get business from those types of companies.

15 And as a result, they would -- what we had
16 said was, look, we don't really want you to go down
17 the line, we don't know about it, the next thing you
18 do is you've got a contract and we're saying no, we
19 don't like this chain, we haven't -- we've heard,
20 you know, the information is bad, so let us just --
21 keep us in the loop at the front end as to what
22 you're looking at.

23 Now, most of the time, I would say a lot of
24 this never came to fruition, and frankly, even if
25 it -- even if it did, a lot of these people weren't

1 necessarily looking to purchase controls, so it was
2 just more of an informational type of vehicle so
3 that we all knew -- nobody -- it's better to have
4 more information and more communication up front
5 than to find out about something that was in
6 progress and then we have to be the ones to say hold
7 it.

8 Q. Okay.

9 MR. MATTHEWS: Just -- before we go on, I
10 just want to put an objection on the record, that
11 the spreadsheet which Mr. Brown is being asked
12 about is produced today only in electronic form.
13 And as I understand it, we're not going to be
14 able to print a copy of what's been used to make
15 a record of the actual document that was used
16 here at the deposition, and so I object to that
17 procedure.

18 I also want to note that the spreadsheet
19 that's shown on the screen at this moment appears
20 to be not an actual record of anything
21 historical, but rather almost a training thing
22 because it lists under the column NAM, name of
23 NAM, and under the column account name, Joe
24 Schmoe's DrugMart, which I don't imagine is, in
25 fact, a real drugstore. So I am not sure what we

1 are looking at. I understand it was produced
2 from the records of Anda but there is not going
3 to be a record of it after this deposition, so I
4 just want to put that on the record.

5 MR. NOVAK: Okay.

6 BY MR. NOVAK:

7 Q. What I think I'd like to do is go through
8 some of the different tabs in the National Accounts
9 Opportunity Pipeline, to get an understanding in a
10 little more detail as to how these types of
11 documents informed your work. As your counsel
12 observed, this example sheet appears to be just a --
13 well, I don't know what it is, but why don't we go
14 to the next tab, which is example, Pipeline.

15 Can you describe for me what's depicted in
16 the example, Pipeline, tab of the National Accounts
17 Pipeline document?

A diagram illustrating a sequence of 10 steps or stages. On the left, there is a vertical column of 10 small black squares. From each square, a horizontal line extends to the right, connecting to a larger black rectangular block. The blocks are arranged in a descending staircase pattern, starting from the top-left and moving towards the bottom-right. The width of the blocks decreases as they move down the sequence.

	Mean	SD	Median	Mode	Range
Age	60.78	9.11	60	60	45-75
Gender					
Male	10	3.16	10	10	5-15
Female	10	3.16	10	10	5-15
Marital status					
Married	10	3.16	10	10	5-15
Single	10	3.16	10	10	5-15
Divorced	10	3.16	10	10	5-15
Widowed	10	3.16	10	10	5-15
Educational level					
High school	10	3.16	10	10	5-15
Bachelor's degree	10	3.16	10	10	5-15
Master's degree	10	3.16	10	10	5-15
PhD	10	3.16	10	10	5-15
Occupation					
Student	10	3.16	10	10	5-15
Teacher	10	3.16	10	10	5-15
Engineer	10	3.16	10	10	5-15
Manager	10	3.16	10	10	5-15
Other	10	3.16	10	10	5-15

[REDACTED]

_____ 1a1

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

8 Q. Okay. Why don't we go next to the example,
9 open issue tab. Can you -- actually, I'm going to
10 skip ahead to the pipeline master file.

11 Now, a moment ago, when we were looking at
12 the example pipeline tab, you indicated that you had
13 not seen the document. As you look at some of the
14 other tabs, are they more familiar to you?

15 A. I can't say sitting here today that I
16 remember this particular document. It looks like
17 some -- you know, it looks like something that I had
18 seen that I had -- the kind of documents I reviewed,
19 that I had received, that I had forwarded to our
20 team, but, I mean, I can't -- I can't tell you right
21 now, oh, yes, I remember, you know, right just off
22 the top of my head about CVS and Target and -- you
23 know, actually saw it.

24 So I can't specifically but, you know, I'll
25 be happy to answer any questions if I -- you know,

1 I'll try to answer the questions to the best of my
2 ability.

3 Q. Okay. Just so we're clear, and this is
4 looking back at the e-mail portion of Anda-Brown
5 Deposition Exhibit 4 --

6 A. Yep.

7 Q. The National Account Opportunity Pipeline
8 documents are the types of documents that you
9 received and distributed to your employees?

10 A. Correct.

11 MR. MATTHEWS: Objection.

12 Q. And this particular Excel spreadsheet, you
13 don't have any reason to believe, isn't one that you
14 would have received and forwarded to your employees
15 on November 9 of 2015, correct?

16 A. Again, without knowing the date, are -- I'm
17 not -- if you could -- if you could go back on that
18 question. Are you -- are you -- well, -- I'm trying
19 to -- I'm trying to make -- I'm trying to see if
20 you're saying that this was a document that was
21 November 9th and I attached it, if that's the case,
22 then, you know, the e-mail would speak for itself,
23 this was the type of report that I would send if it
24 was receive -- if it was sent to me, I would forward
25 it to our team, yes.

1 Q. Okay. I want to go, while we're on the
2 pipeline master file, so -- if you look at -- there
3 is an item numbered 9, that makes reference to
4 Leslie Harrington. Who is Leslie Harrington?

5 A. Leslie Harrington is a national account
6 manager, so she was responsible for obtaining these
7 types of accounts.

8 Q. Okay. And then the next column in the
9 pipeline master file makes reference to Dale Hayes.
10 Is that the customer or potential customer who is
11 being discussed at this point in the spreadsheet?

12 A. Yes.

13 Q. Okay. And for account status, that
14 indicates that this would be an existing account?

15 A. Yes.

16 Q. So Dale Hayes, as of this time in November
17 of 2015, is a company with whom Anda already had a

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

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9

Q. Okay. And when you say Schedule II controls, that would include opioid products like OxyContin and fentanyl?

12 A. It may. There are nonopioid Schedule II products, so I'm not sure which products -- by this I couldn't tell which products she was -- she was looking at.

16 Q. Okay. Then the next column makes -- or makes reference to, department, and it refers to compliance.

19 Is there anything significant on these National Account Opportunity Pipelines -- let me -- I'll start with a different question.

22 A. Okay.

23 Q. Are the National Account Opportunity Pipelines used in part to track anything that compliance should be doing, your department should

1 be doing as it relates to a particular customer?

2 MR. MATTHEWS: Objection.

3 A. I'm not sure that it's accurate, so I'll --
4 the way it's phrased is accurate.

5 Q. Okay.

6 A. If there was a relationship developed with a
7 national account customer, and it involved
8 controlled substances, the sale of controlled
9 substances, any controlled substances, before that
10 would be approved, I mean, you have several
11 different -- as we talked, several different
12 departments have to do things, have requirements.
13 The department has -- they have a requirement to get
14 it approved by the department, not necessarily vice
15 versa. That's what I wanted to clarify.

16 Compliance would need to receive significant
17 data and information on that customer by location
18 and go through dispense data, questionnaire,
19 procedures, all the different things from that
20 customer, and if we weren't comfortable or we didn't
21 approve it, that deal -- they would not be selling
22 controls to that customer. Any -- and it was done
23 on a store by store basis. So basically, we had to
24 get complete information on each store, each
25 separation registration, in order to -- in order for

1 that to go forward. So it was more -- it was more a
2 requirement of the -- of the national account
3 manager to get approval rather than, you knowing
4 compliance having to -- I just wanted -- semantics,
5 I know, but --

6 Q. Okay. I think when you initially described
7 the purpose of National Account Opportunity Pipeline
8 documents, you made reference to regional chains.
9 Are national chains also tracked in these types of
10 documents on a regular basis?

11 A. Yes. Yes.

12 Q. Okay. Now, the next column is a reference
13 to department lead and it lists your name.

14 A. Uh-huh.

15 Q. Is that simply a reflection that you were
16 the lead in compliance associated with doing
17 whatever compliance needed to do in order to approve
18 or make a decision on the Schedule II full chain
19 rollout for Dale Hayes?

20 MR. MATTHEWS: Objection.

21 A. Yes.

22 Q. And then the final column, column G, makes
23 reference to the sales phase/action items, and the
24 action item referenced for this particular Dale
25 Hayes customer is: Will plan to pick up this

1 process with new buyer.

2 Can you give me a description as to what
3 that means?

4 A. Again, not have -- just reading the document
5 as is, if you go to number 8, it says: Still
6 considered independent as the deal has not closed
7 yet. Just got assigned a new buyer Wednesday. We
8 have played phone tag but no contacts as of yet.
9 Eventually move to -- because -- Ahold, which was
10 another regional chain, I believe, but this buyer
11 may have better insight into the role he would play
12 and if we could pick up where we had left off.

13 That is -- and if you look at 9, 10, 11,
14 that's all dealing with the sales managers
15 responsibility to deal with the buyer, because in
16 compliance case, it would be the sales manager going
17 to that buyer to say here's the data that our
18 compliance -- here's information that our compliance
19 department needs. So they would either provide it
20 or they wouldn't. If they don't, well, then we're
21 not worried about -- we're not worried about selling
22 controls to them.

23 But if you see, there is two below the
24 compliance -- 10 and 11 are the same -- the other
25 departments, it's the same status.

1 Q. And then continuing with the other columns,
2 the Priority column, H, lists this as a high
3 priority.

4 Is this simply just a reflection as to how
5 different sales opportunities at Anda are ranked in
6 terms of priority?

7 MR. MATTHEWS: Objection.

8 A. That's -- that's my -- that was my
9 understanding but I didn't create the document.

10 Q. Okay. If you can continue to scroll to the
11 right. Okay. And now scroll further down.

12 I want to go to another instance where there
13 are particular references to compliance, and it
14 might take a while until we get to -- okay. Why
15 don't we go to number 21 and we'll start again.

16 Again, this is for the account manager
17 Leslie Harrington, she would have responsibility for
18 this account on the sales side?

19 A. Uh-huh.

20 Q. And this particular account is Meyer?

21 A. Uh-huh.

22 Q. An existing customer?

23 A. Uh-huh.

24 Q. And then there is referenced in columns D
25 and E, a new vault CSOS interface, and it references

1 the departments as being IT and compliance.

2 A. Uh-huh.

3 Q. Can you describe for me your understanding
4 as to what those different entries signify?

5 A. Again, no -- having no prior -- or no
6 specific recollection outside of this document, so I
7 can only, you know, go off what it says, Meyer was a
8 regional supermarket chain that had pharmacies. It
9 was -- what it says here: New vault CSOS interface.

10 I would, again, no knowledge and I'm just
11 trying to figure out what it says here, that Meyer
12 got a new vault. Vault is what stores Schedule II
13 products. Everyone who, you know, distributor has
14 to have a vault to store Schedule II products, and
15 sounds like they had a new vault and products are --
16 Schedule II products are shipped from the vault.
17 They are not taken out and put somewhere else and --
18 because they are shipped separately.

19 So this looks to me like they said there was
20 a new vault. Since they are being picked and
21 shipped or even -- or being ordered, sounds like,
22 from Meyer, and so on, they were set up on CSOS and
23 the CSOS comes through that vault and there was an
24 IT issue with the CSOS due to the new vault
25 interface, and then because it involved CSOS and it

1 was really Michael and Emily who -- Schultz who
2 handled the CSOS, it fell under her purview to make
3 sure that that was -- that was accurate, because,
4 again, yeah, it's an IT issue to make sure that we
5 got the reports, but it was also, you know,
6 ultimately a compliance issue to make sure that
7 those reports were transmitted properly and
8 accurately.

9 But again, I wasn't -- I'm reading -- I'm
10 reading the form. So I'm just trying to answer the
11 best of my ability.

12 Q. This is based upon your understanding simply
13 reading the document in front of you?

14 A. Correct. That's correct.

15 Q. Is it fair to say that these National
16 Account Pipeline spreadsheets are compiled at Anda
17 to communicate sales opportunities across different
18 departments of the company?

19 MR. MATTHEWS: Objection.

20 A. That was my understanding.

21 Q. And what the status of the sales efforts
22 were?

23 A. That's my understanding, yes.

24 Q. And they were recorded contemporaneously in
25 order to convey the information to the different

1 departments?

2 MR. MATTHEWS: Objection.

3 A. Again, because it was created by the
4 National Accounts, we didn't create the document, I
5 don't know if I could -- I don't want to go as far
6 as to speculate what their intent really was.

7 Q. Okay. When you would disseminate these
8 pipeline documents to your employees, what was your
9 intent in doing so?

10 A. To make sure that our team knew that if
11 there were issues that were requiring compliance --
12 you know, that required compliance or approval or
13 review or what have you, that they would know about
14 it, and if they see something, for example, let's
15 say Dale Hayes, all of the sudden there is data
16 from -- I don't know how many stores they had but
17 let's just hypothetically 100 -- 100 stores come in,
18 I didn't want our team to, oh, my God, we are
19 blind-sided here, we have got to look at it. So I
20 wanted to kind of keep them in the loop and say this
21 might be coming through, I don't know if it will,
22 but if you see it, you'll know what it is and you'll
23 know where it is, at least keep it in the back of
24 your mind, this is something we have to analyze.

25 Q. And as we have seen, there are certain

1 instances where people within the compliance
2 department are referenced as having a task to do; is
3 that correct?

4 A. Well, as I mentioned earlier, the way the
5 compliance department was structured, there were two
6 teams. There was Emily's team and there was my
7 team. So Emily -- it may not have been Emily
8 actually doing it, but she was the lead. Just like
9 I would have been on the reviewing, you know,
10 dispense data and approving or rejecting sales of
11 controlled substances through a particular -- a
12 particular chain.

13 Q. But at any rate, these documents would
14 sometimes be disseminated to identify
15 responsibilities for tasks to be performed by
16 someone within compliance?

17 MR. MATTHEWS: Objection.

18 A. I'm not sure that's the correct -- I
19 would -- what I -- I think more accurately it was
20 more of a notification, because it -- this was --
21 this was in the horizon. I don't know if it will
22 ever come to fruition, but I'm just keeping you
23 informed, when we get it, we'll figure out who is
24 doing it, but I -- I had a philosophy that I liked
25 to keep our team informed of what was going on in

1 the company, especially if there was any -- if there
2 were any potential situations that would involve
3 compliance.

4 Q. Okay. Understanding that these were
5 potential sales opportunities, not necessarily ones
6 that materialized?

7 A. Correct.

8 Q. And so the purpose of the document was to
9 convey what might be on the horizon to the
10 compliance team?

11 MR. MATTHEWS: Objection.

12 A. Again, the purpose of the document was a
13 sales document. It was transmitted, and again,
14 I'm -- if we look at the distribution list, it was
15 transmitted to various departments to give them a
16 heads-up of what might be coming. So, you know, it
17 went to Chip Phillips, who was the president of the
18 company, went to Tricia Hew Chen, who was the chief
19 financial officer, went to Tom Perrine, who was the
20 IT -- head of IT, so -- it went to the head of
21 purchasing. It went to all different departments to
22 just -- you know, as more -- as informational.

23 Q. Okay. It was a method of conveying the
24 status of sales opportunities across all the
25 different departments of the company?

1 A. That -- that, to my understanding, that was
2 the -- you know, based on this, and again, I didn't
3 create it and I didn't -- I wasn't the one who sent
4 the original e-mail, but yes, that's my
5 understanding.

6 Q. Okay. Was part of your work in compliance
7 at Anda, associated with performing some of the work
8 necessary to either create a new sales account with
9 the company or to expand upon what could be sold to
10 existing accounts?

11 MR. MATTHEWS: Objection. I'm not sure
12 that -- I'm not sure that really captures what
13 our role was. I'll try -- I'll answer it to
14 my -- I'm trying to understand the question.
15 What our role was, that any sales opportunity
16 that came to the company that involved the sales
17 of controlled substances, had to be reviewed and
18 approved by compliance before those sales would
19 be permitted.

20 And I personally reviewed many of these
21 customers myself. I personally did it. Some of
22 the other members -- some of those other members
23 of our team handled, we parsed out the work, but
24 that was our responsibility. It was -- like I
25 say, it was an approval or rejection process, and

1 making sure that all required information was
2 received from each of these potential -- either
3 potential control substance customers before they
4 were approved to purchase controls.

5 Q. We've looked at the National Account
6 Pipeline spreadsheet as one method by which sales or
7 the sales department at Anda would communicate sales
8 opportunities to the compliance department. What
9 are the other ways?

10 MR. MATTHEWS: Objection.

11 A. I mean, there are -- you know, if it's an
12 individual customer, individual pharmacy, you know,
13 the pharmacy representative will notify the customer
14 of the requirements of a customer seeking to
15 purchase controls. First of all, it has to be an
16 existing customer, and then that customer would be
17 able to go to our website, print out a copy of the
18 customer questionnaire that we required of each
19 customer, they would fill that out, they would
20 provide dispense data that -- 90 day prior dispense
21 data for all products dispensed by that pharmacy by
22 unit, dosage unit, individual dosage unit and number
23 of prescriptions per item, and I believe -- I'm not
24 sure what time frame, but I think at some point we
25 started asking for their procedures for fill -- for

1 dispensing controls. We wanted to know what their
2 procedures were.

3 And they would put that packet together.
4 There was a fax number on the questionnaire and they
5 would fax it in. It was a dedicated fax line to be
6 submitted to compliance. And it could go right to
7 compliance and that's how a customer -- a sales rep
8 would say, this is what you have to do, and a
9 customer would do it from there.

10 Or they could take the same documents and
11 e-mail them to a dedicated compliance e-mail.

12 So that's, you know -- and for independent
13 pharmacies, that was the most common way that sales
14 would at least -- would notify their customer of the
15 manner in which they were required to apply if -- to
16 purchase controls if they so desired.

17 Q. Okay. How about for regional or national
18 chains, how would that be communicated?

19 A. It would be -- well, this was one way.
20 Another way would be that a national account manager
21 would say -- and this happened sometimes, although,
22 I can't recall a specific instance, but they would
23 say, look, I'm working on this opportunity, I've
24 got, you know, they want to purchase controls,
25 here's their -- I'd like to set up a call with you

1 and I -- it could be somebody else I designate but
2 in those cases it was usually me, and their
3 compliance people and you tell them exactly what you
4 need, let them know what is required and you guys
5 can talk and see, you know, and so they understand
6 what it is, so I'm not the messenger.

7 That would happen from time to time as well.
8 More than time to time, it happened a decent amount
9 of times.

10 Q. At the very beginning of that answer you
11 said: Well, this was one way.

12 A. This was one way, yeah.

13 Q. What were you referring to when you said,
14 "this"?

15 A. This -- this pipeline as a notification, but
16 if it got more --

17 Q. Okay.

18 A. -- detailed, for example, if there was a
19 new -- and I don't know if it ever came to fruition,
20 but just using the Dale Hayes example, okay, you're
21 talking to these people, if it ever got past that
22 stage, all right, we know about it, so if Leslie
23 Harrington were to pick up the phone or send me an
24 e-mail and said, you know, I talked to the buyer,
25 finally connected with them, they have a compliance

1 director, can you talk to them?

2 That would be -- that's how that would --

3 Q. Another way of communicating?

4 A. Yes. Exactly. Exactly.

5 Q. Okay. That's, I think, all I have for
6 Deposition Exhibit 4.

7 Mr. Brown, were there particular standard
8 operating procedures that you familiarized yourself
9 with when coming to Anda?

10 A. There were -- there were standard operating
11 procedures in place that I was given, I think,
12 probably my first day at Anda that I reviewed, yes,
13 and utilized in the -- and made sure our team
14 utilized in terms of conducting our day-to-day
15 affairs.

16 Q. Okay. Can you describe for me what
17 different standard operating procedures you used in
18 compliance on a day-to-day basis?

19 A. Well, we used -- and it's -- I think I've
20 described some of it. When we had a new customer --
21 a -- an existing customer who wanted to purchase
22 controls, we laid out all of the requirements that
23 we would need to review that request. One SOP, I
24 believe, dealt with that.

25 Another SOP -- and not having those in front

1 of me and not having reviewed them for the last few
2 years, I can't recite them by rote, but one was
3 also -- another one was as we discussed earlier, a--
4 if a customer wishes to have an increase in the
5 limits that they are allowed to purchase, monthly
6 limits, what the process is for that, you know, and
7 making sure that we went through that, and then
8 there was another SOP that dealt with controlled
9 substance orders that were, as we called them, of
10 interest or needed further review -- that we
11 would -- and the process we would use to verify
12 those orders, the information and how we would
13 analyze those and determine whether, you know, those
14 were legitimate orders or required additional
15 explanation or whatever disposition there would be.

16 Q. Okay. Let me have this marked as Anda-Brown
17 Deposition Exhibit Number 5.

18 (Anda-Brown Exhibit 5 was marked for
19 identification.)

20 BY MR. NOVAK:

21 Q. We've had marked as deposition Exhibit -- or
22 Anda-Brown Deposition Exhibit 5, a document which
23 purports to be an e-mail exchange between you and
24 Michael Cochrane, is the first page and then
25 attached to that are what appear to be versions of

1 three separate standard operating procedures at
2 Anda, Standard Operating Procedure 28, Standard
3 Operating Procedure 40, and Standard Operating
4 Procedure 45.

5 And I should note that the document bears
6 the Bates number Anda_Opioids_MDL 91399 through
7 91410.

8 Is that an accurate characterization of what
9 the document is?

10 MR. MATTHEWS: Objection.

11 A. Let me look. From what I can tell. I don't
12 have specific recollection other than this document.
13 Again, just reading it, it looks like -- again, I'm
14 just reading the words, that Michael and I had had a
15 conversation, that I had -- we had talked about
16 potential revisions to the SOPs once I had -- as I
17 say, I had reviewed -- I had been handed these when
18 I walked in and had had some time to review them. I
19 had some suggestions. It looks like, and again, I'm
20 not trying to speculate, but I'm looking at the
21 language, I may have attached a letter on May 31st
22 that outlined those changes. Michael says, why
23 don't you just put them in the SOPs and that's what
24 it looks like I did.

25 But again, having no independent knowledge

1 other than what the document says.

2 Q. Okay. Well, let's go through the e-mail
3 exchange itself. The first one is an e-mail from
4 you to Michael Cochrane on May 31st, where it just
5 says, per our discussion today. And then Michael
6 responds the following morning, June 1st, and says:
7 I think it looks great to streamline things and keep
8 things formatted the same way. What do you think
9 about working specific things from this letter into
10 one or more of these existing SOPs or we can create
11 a new SOP in this format when an inspection is a
12 definite must.

13 And then you reply on the afternoon of June
14 1st at 2:39 and say: I attempted to add the
15 pertinent sections to each of the existing SOPs as
16 appropriate. Please let me know your thoughts when
17 you have a chance.

18 Do you have any reason to believe that you
19 didn't have the e-mail exchanges that are depicted
20 on the first page of Anda-Brown Deposition
21 Exhibit 5?

22 A. I don't have any reason to believe that
23 didn't happen, no.

24 Q. Okay. This is an accurate depiction of the
25 e-mail exchanges that occurred between you and

1 Michael?

2 A. With one exception. I don't -- unless it's
3 attached here and I didn't really see it, I'm not
4 sure -- this seems to imply -- the May 31st, seems
5 to imply, per our discussion earlier today, and
6 Michael's response, that I attached a document to
7 the May 31st e-mail, and so if -- again, I'm
8 implying, based on the language, so if that's the
9 case and it's not attached, I don't know if this is
10 a complete depiction, is all, I guess, I'm saying.

11 Q. Okay. There may be an additional letter
12 that's referenced in that June 1st e-mail from
13 Michael to you?

14 A. Based solely on what I'm seeing in this
15 document, yes.

16 Q. Okay. I want to go through a couple pages
17 now of the underlying SOPs.

18 A. Okay.

19 Q. And really, what I'm going to focus on
20 initially are just some of the data entry functions.

21 A. Okay.

22 Q. If you look at Standard Operating Procedure
23 40, and that begins at the Bates page,
24 Anda_Opioids_MDL 91403 of Deposition Exhibit 5,
25 first of all, let me start by asking what is the

1 purpose of Standard Operating Procedure 40?

2 A. The purpose is to set -- to establish the
3 procedures that are utilized to analyze any order
4 that is identified in the company's electronic
5 order -- control order monitoring system.

6 Q. Is it fair to say that Standard Operating
7 Procedure 40 is designed to record those steps that
8 the compliance department would take in evaluating a
9 controlled substance account to determine whether
10 Anda would sell controlled substances to a
11 particular entity?

12 MR. MATTHEWS: Objection.

13 A. That's not -- that's not this SOP.

14 Q. Okay. That would be Standard Operating
15 Procedure 28?

16 MR. MATTHEWS: Objection.

17 A. Just -- I'm just looking to see. Yes.

18 Q. Okay. So going to Standard Operating
19 Procedure 40, it is designed to record the steps
20 that Anda implements for purposes of operating a
21 suspicious order monitoring program?

22 MR. MATTHEWS: Objection.

23 A. No.

24 Q. I still didn't get it right?

25 A. No.

1 Q. How would you describe what the purpose of
2 SOP 40 is?

3 A. The purpose of this procedure is to document
4 the steps that are taken when an order is identified
5 and held in the company's electronic order
6 monitoring, order monitoring system.

7 Q. Okay. And the electronic order monitoring
8 system you are making reference to is the TPS
9 system?

10 A. I believe it was in TPS, yes.

11 Q. Okay. At least during your initial years?

12 A. Uh-huh.

13 Q. At Anda?

14 A. Correct.

15 Q. Was there a period in time that a different
16 system was in place while you were at Anda --

17 A. Not while I was at Anda.

18 Q. Let me finish the question.

19 A. All right.

20 Q. To identify orders of interest?

21 MR. MATTHEWS: Objection.

22 A. Not when I was at Anda.

23 Q. When did you leave?

24 A. January 2017.

25 Q. Okay. We'll get to the whole Buzzeo thing

1 later.

2 I want to direct your attention to the next
3 page of Standard Operating Procedure 40.

4 MR. MATTHEWS: It's the page bearing Bates
5 number Anda_Opioids_MDL ending 1404.

6 MR. NOVAK: Thank you. I never mind if you
7 clean up that type of stuff.

8 Q. There are different Roman numerals on this
9 page of Standard Operating Procedure 40 dealing with
10 controlled substances and I'm just trying to figure
11 out the mechanics of how these things work. At the
12 top of the page it says: Refer to TPS customer
13 maintenance license info.

14 And then in parenthesis it says: TPS 2.2.4.1.

15 What does that TPS 2.2.4.1 mean?

16 A. In order to access different screens that
17 contain specific customer information, you would
18 go -- because this was a home designed -- this was a
19 system that was in place well before I got there,
20 you would push certain keys once you're in TPS that
21 would get you to the screen that contains the
22 information that you need to get. So it was -- so
23 let's say, you know, give an example. Yeah, I've
24 got to look at the -- so you say, gees, how do I get
25 the -- where do I find it? Well, I don't have to go

1 home. You just pull out the SOP and it says you
2 push these numbers and it gets you to that screen.

3 Q. Okay. So if someone in the compliance
4 department is evaluating whether a potential
5 purchaser of a controlled substance has the
6 necessary customer maintenance license, they would
7 type in TPS 2.2.4.1 and that information should be
8 contained there?

9 A. Yes. It will show the state that they are
10 licensed in and then it will also show if a customer
11 questionnaire is on file.

12 Q. Okay.

13 A. That's a safeguard process, because in
14 reality, a customer wouldn't be able to order if
15 they didn't have those things, but it's a safeguard,
16 it's another double-check.

17 Q. And in fact, part of setting up a new
18 customer would require that someone in compliance
19 actually enters the licensing information into TPS;
20 is that correct?

21 A. That is correct, yes.

22 Q. Okay.

23 A. Well, let me -- I don't want to misstate.
24 For some licensing there was -- there is
25 department -- it has to be coordinated with

1 compliance but it may actually be customer setup.
2 There is a separate department that when a customer
3 comes in and they fill out their credit record and
4 they do this, whether or not they have -- let's say
5 they have a DEA license. Most do. It may be
6 customer setup that actually enters it but it's
7 coordinated with compliance, but the actual
8 entering, it may be someone else. That's all.

9 Q. Before compliance will sign off on the sale
10 of a controlled substance, there has to be the
11 necessary licensing information inputted so that
12 it's available in TPS 2.2.4.1, correct?

13 A. That's a prerequisite before anything else
14 happens, yes, before the customers can even apply
15 or -- yeah, exactly.

16 MR. MATTHEWS: Just to be clear, we're
17 talking about the time that he was at Anda,
18 right?

19 MR. NOVAK: Yes.

20 MR. MATTHEWS: Okay.

21 BY MR. NOVAK:

22 Q. Now, the next Roman numeral says review
23 customer compliance notes, and then there is a
24 parenthetical, TPS 2.2.4.1/shift plus F4 and F8.

25 That is what you would have to type in to

1 the TPS system in order to obtain access to the
2 compliance notes for a particular customer?

3 A. Correct.

4 Q. So when someone in compliance takes notes
5 about various features of a particular customer who
6 is purchasing opioids from Anda, this is where those
7 notes would be kept?

8 A. Just to clarify, it would be any controls.

9 Q. Including opioids?

10 A. Correct.

11 Q. Okay. But this is where the notes would be
12 kept?

13 A. Correct.

14 Q. Okay. Who is it who can -- has the
15 authority to input notes in that section of the TPS?

16 A. Only the compliance -- only designated
17 compliance representatives which would have actually
18 been the members of my team, Michael Cochrane and
19 Emily Schultz.

20 Q. Okay. The next section of standard
21 operating procedure is entitled Review Customer
22 Questionnaire, and the first bullet point under that
23 says: Open customer questionnaire on share drive if
24 already saved. And under that there is a reference
25 to -- in a parenthetical to what looks like it's an

1 O drive folder.

2 Is that accurate?

3 A. That is correct.

4 Q. Okay. That's the O drive that you made
5 reference to earlier, where the customer
6 questionnaires are kept?

7 A. Correct.

8 Q. Okay. Not in TPS?

9 A. Correct.

10 Q. The O drive is a server maintained folder
11 that's available to anyone in Anda?

12 MR. MATTHEWS: Objection.

13 A. The O drive itself contains many folders
14 related to different information that is maintained
15 by Anda of all different sorts of items. There are
16 specific folders dealing with compliance and this
17 particular folder is accessible only by authorized
18 designated people which would again be the people on
19 my team, Emily, and Michael Cochrane while I was
20 there.

21 Q. Okay. And so for this particular O drive
22 folder, security is tighter as to who can place
23 documents or change documents in that particular
24 folder; is that correct?

25 A. That is correct.

1 Q. Okay. Now, the next category of information
2 -- or the next Roman numeral in Standard Operating
3 Procedure 40 is entitled: Review Summarize
4 Dispensing Data From Pharmacy, If on File.

5 Do you see that reference?

6 A. Yes.

7 Q. Now, I don't see a reference for this Roman
8 numeral as to where dispensing data from a pharmacy
9 would be kept. Do you know offhand where it's kept?

10 A. It's kept in the O drive under: Florida
11 Anda warehouse compliance customer questionnaire.

12 Q. Okay. And all of the information contained
13 in those different bullet points would be contained
14 in that O drive?

15 A. That's correct.

16 Q. Is the summary dispensing data kept in the
17 same subfolders as the customer questionnaire?

18 A. By customer. So in the O drive you list
19 every customer -- you have a separate folder for
20 each customer.

21 Q. Okay.

22 A. And that would include all of the
23 information that each customer has submitted as --
24 and again, as well as any e-mail, including any
25 e-mails that might have gone to the customer, and

1 their responses, and so it would be by customer that
2 data would be included.

3 Q. Okay. If a customer has multiple stores,
4 would there be even more subfolders, one for each
5 store to reflect the dispensing data of each
6 individual store?

7 A. There would be a -- it would be by customer
8 number and we would try to -- I can't remember how
9 we figured out how to make sure that they were
10 somewhat linked, but every -- every store location
11 would have its own individual customer folder,
12 including questionnaire, dispense data -- yeah, it
13 would have each -- each folder would have, yes.

14 Q. Okay. So if Walgreens had, say, 150 or 250
15 stores in the state of Ohio, there would be, kept in
16 the O drive, a separate customer questionnaire and a
17 separate summary dispensing data on file as for each
18 of them?

19 MR. MATTHEWS: Objection.

20 A. That's correct. It's correct. The only
21 thing I would maybe revise is there would be a
22 separate Walgreens folder that would list -- have a
23 folder for every location, regardless of state,
24 regardless of what -- just be if it was Walgreens,
25 store number, whatever, and would have all that

1 information.

2 Q. I wasn't suggesting you kept it only for
3 Ohio.

4 A. No, I know. But I mean -- it's not also
5 segmented by state is I guess what I'm saying.

6 Q. Okay.

7 A. You know, customer number 12345 is in
8 Albuquerque and customer 12346 is in Anchorage, it
9 would still be in -- it would each have their own
10 folder but it would be in a separate Walgreens
11 folder by --

12 Q. Would there be a method to search it by
13 state?

14 A. We could. Yes, there were definitely -- we
15 had -- we had a lot of ways that would -- that would
16 slice and dice, so to speak.

17 Q. I was about to use the same term.

18 A. Which -- I will not tell you I was --
19 expertise, I had good people on my team to do that.

20 Q. Who were the best slicers and dicers in your
21 department?

22 A. Sabrina Solis and Latoya Samuels.

23 Q. They would have the ability to go into the O
24 drive and extract data using various methods?

25 A. O drive or TPS, because if it dealt with

1 customer sales information and purchasing history,
2 it would be in TPS. So yes, they could work the
3 different systems to get that. I need a report on,
4 you know, et cetera, how many customers we have in
5 Ohio that have bought so much whatever, and they
6 would be able to do that.

7 Q. Okay. The next category that is contained
8 in Standard Operating Procedure 40, under Roman
9 numeral 6 is: Review TPS controlled substance
10 inquiry, and then the parenthetical 2.4.3.12.

11 What does that signify?

12 A. Well, again, you push the same numbers and
13 you would look in TPS, because now it's not in the O
14 drive -- although -- well, let me go back on that a
15 little bit. And these -- by the way, this was the
16 2012, April 5th, and these were -- these were
17 certainly reviewed each year and there may not have
18 been changes made but they were reviewed.

19 We did keep records of, for example, if
20 there -- if there were certain customers that were
21 purchasing a particular product from us as their
22 prime vendor, but that -- it would be in TPS but,
23 frankly, would also be in the O drive. We'd have a
24 notation on that. It would also be in the O drive
25 under the customer, we'd have a notation. If they

1 were, by chance, purchasing under a particular
2 program that we had from a, you know, based on a
3 particular NDC, we would have that in there, but it
4 would be both.

5 And then the other two are both definitely
6 in TPS.

7 Q. Okay. If you turn a couple pages in the
8 document to the page ending in Bates number 91406,
9 and again, we're still in Anda-Brown Deposition
10 Exhibit 5, this appears to be Standard Operating
11 Procedure 45. Can you tell me what that standard
12 operating procedure is?

13 A. That relates to certain instances and I used
14 one major example, but there were others, that
15 requests would come through the system called Remedy
16 and that was used for different departments by
17 salespeople or managers and they -- I think -- no,
18 maybe they were salespeople and they copied their
19 managers. In the compliance case it would be a few
20 things. It might be a customer -- so let me take
21 the fourth example first, because that's the easiest
22 one.

23 When we first approved a customer for
24 controls, you know, it was -- we did not
25 automatically allow them to purchase oxycodone and

1 methadone. We knew those were certain items we
2 wanted to keep more of a limit on, so I can't
3 remember how many months they had to purchase --
4 they had to develop a control, whether it was 30 or
5 60, before they were even eligible to purchase those
6 items.

7 So now a customer has been purchasing
8 controls for 60 days and they say well, we'd like to
9 apply to purchase this, and they would send a
10 request. And so that would go through this thing
11 called Remedy, and again, I'm trying to recall time
12 frame but we established procedures for what they
13 would have to attach to that request in order for us
14 to even review it, but they would come through -- it
15 would come through the Remedy system, which is a
16 request to do something, and in this case customer
17 wants oxycodone, wants to purchase whatever, well,
18 how many, and why, and then you go through the whole
19 process, what's their order history, what's their
20 dispense data look like, send us new dispense data,
21 whatever it happened to be.

22 But if it was approved, then let's say you
23 would go in -- if that request was approved, they
24 had sent in everything in that they were required
25 and we were satisfied, okay, we would then -- we'd

1 then go into the customer limit file, which is in
2 TPS, customer control limits, and it would --
3 oxycodone and methadone are always zero when a
4 customer starts out -- and we'll say okay, we'll
5 move it to 500 or 1,000, whatever it happened to be,
6 if we approved it. Then we would put a note based
7 on da da da, it's in the O drive, customer has been
8 approved to purchase oxycodone, 1,000 limit, or
9 something like that.

10 Q. Okay.

11 A. And you could do the same thing for any one
12 of these three. I just used that as an example of
13 how the system worked.

14 Q. Okay. So Standard Operating Procedure 45
15 was designed to be the procedures for Anda
16 compliance to create eligibility for a customer to
17 be able to purchase oxycodone or methadone?

18 MR. MATTHEWS: Objection.

19 A. That was one of the -- that was one item,
20 yes. There are, as you can see, there are other --
21 other things that can be requested as well.

22 Q. Let's talk about the others. There is
23 also -- and this is under scope, if we're looking at
24 that particular portion of Standard Operating
25 Procedure 45, that there are four different bullet

1 points of things that this procedure is supposed to
2 address?

3 A. And -- just to say -- again, I don't have --

4 MR. MATTHEWS: Wait for a question.

5 THE WITNESS: I'm sorry. Okay.

6 A. Could you -- just --

7 Q. These are the -- these four bullet points,
8 these are the particular issues that SOP 45 is
9 designed to address for the company?

10 MR. MATTHEWS: Objection.

11 A. These are among the items, and again, not,
12 just -- this is the first time I've reviewed this in
13 a few years, but the phrase, this is to include,
14 means that there may be others, but these are most
15 common.

16 Q. Okay. So let's go through them one at a
17 time, corrective adjustment for pending order. What
18 does that mean?

19 A. Okay. Customer is at 1,000 limit for
20 alprazolam, and they want to order -- they want to
21 order 200 more. Okay? That day. Okay. Well,
22 they'll put a note and then we'll say why? Attach a
23 reason why, attach -- possibly attach new dispense
24 data, you know, and if we -- you know, let's say
25 they -- I can give you examples of reasons, not all

1 inclusive, but a customer says you know what, my

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 They might say, you know, I just picked up a
8 new clinic, you know, Dr. Smith, he's five minutes
9 from me, here is his specialty, here is his DEA
10 number, we might make a quick check, make sure there
11 aren't any issues with that doctor and the specialty
12 conforms with the request. Okay. And we'll say,
13 all right, if it makes sense, and we have enough
14 written documentation, not oral, but written, we
15 will approve and we'll move the limit up to 1200, as
16 an example.

17 Q. Okay.

18 A. That's where that comes in.

19 Q. Now, similar to what we did with SOP 40, I
20 want to focus just on the mechanics of how the
21 information is kept. Looking at the procedure, the
22 first step that is referenced there is: Determine
23 type of remedy request.

24 How is that conveyed to the person who is
25 performing these steps in SOP 45, how do they

1 determine what type of remedy request is being
2 evaluated?

3 A. The person who submits the remedy request is
4 responsible for typing in this is what I need, this
5 is what I'm asking for.

6 Q. Okay. Who is authorized to submit a remedy
7 request within the company?

8 A. Any salesperson or their manager.

9 Q. So someone in sales comes across a control
10 limit of 1,000 pills that is imposed on a customer.
11 If they want to sell more than that 1,000 limit,
12 they have to communicate a request to compliance to
13 evaluate whether it's appropriate to exceed that
14 1,000-pill limit?

15 MR. MATTHEWS: Objection.

16 Q. As one example.

17 MR. MATTHEWS: Objection.

18 A. As an -- as an example, yes.

19 Q. Okay. And if that inquiry came in from
20 someone in sales, the way that compliance would
21 evaluate it is addressed in Standard Operating
22 Procedure 45?

23 A. That is correct.

24 Q. These are the steps that a compliance team
25 member should undertake in order to say yes or no to

1 the person in sales who is asking the question?

2 A. Yes.

3 Q. Okay. Now, just looking at the mechanics,
4 so someone submits a remedy request, and the second
5 step that is referenced here in the procedure is:

6 Refer to TPS customer maintenance licensing info,
7 and then there is the TPS parenthetical information,
8 and there are several bullet points under that.

9 Can you walk me through what each of these
10 bullet point steps signifies?

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

12 Q. Okay. The next bullet point is: Observe
13 DEA license status of active/expired.

14 I take it this bullet point is just that the
15 compliance person in evaluating a review request
16 should look to see whether they've got an active
17 license on file?

18 A. Correct. Again, it's as I mentioned
19 previously, it's more of a double-check because if
20 their DEA is expired, they can't order anyway, but
21 it's just, again, double-check.

22 Q. When you say they can't order anyway?

23 A. System wouldn't allow them to order a
24 control with an expired license.

25 Q. You mean if there is an expired license --

1 A. DEA license.

2 Q. DEA license, there is already a security
3 mechanism built into the TPS system that would
4 prevent Anda from selling to that customer?

5 A. That is correct.

6 Q. Okay. The next bullet point says: Pay
7 particular attention to the city/state of request.

8 Actually, I interposed the word, the, but
9 otherwise, I think I read it correctly.

10 What relevance does the city or state have
11 in evaluating a request to, say, increase the
12 threshold limit for OxyContin?

13 A. Well, you know, as you -- as we talked
14 earlier on, we do get and did get updates from
15 various -- whether it's HDMA whether it's DEA,
16 whether it's other law enforcement about areas that
17 are particularly problematic for drug abuse and we
18 kind of knew where some of these were and we would
19 look and if it's an area that were -- we have some
20 concerns about, we're probably going to do some more
21 investigation before we go ahead and approve it. I
22 mean, that's one other thing, let me ask for
23 additional information, whatever that happens to be
24 but we do want to know where we're selling to.
25 That's again, part of know your customer.

1 Q. Okay. The next bullet point says:
2 Determine if a customer questionnaire is on file,
3 and then there is a parenthetical that says customer
4 flagged, Y.

5 What does that mean?

6 A. It means that is there -- it will say,
7 customer questionnaire, and if it's N, meaning no,
8 we would not -- we would not approve any -- now,
9 again, some of this, if you -- you know, if you look
10 at the -- at the types, a lot of this would apply to
11 new account, customer -- and control eligibility.
12 You know -- a customer wants to order controls.
13 Sorry, we don't have a questionnaire on file, we
14 can't do it. So that's what that is about.

15 Again, it wouldn't -- it wouldn't come into
16 play as much on the others because they wouldn't
17 have been approved for some of the other factors if
18 they didn't have a questionnaire on file, but
19 because they -- you know, this would be -- this
20 would more apply to a new customer, new account, new
21 control account.

22 Q. Okay. The next bullet point says:
23 Determine if the customer is currently flagged: "Y"
24 for controls or "new".

25 A. Again, is this customer now approved or is

1 this a new customer, are they already approved.
2 This would go to, you know, corrective adjustment,
3 control limit increase, oxycodone, methadone. Well,
4 if they are not flagged for controls, if they are
5 not approved, those wouldn't apply because they are
6 not -- they're not approved for controls at all. Or
7 are they a new account customer, which is the new
8 account.

9 Q. Okay. Now, earlier I think you said that a
10 new customer has a period of time before they're
11 eligible to even request to purchase controlled
12 substances?

13 A. Correct. Correct.

14 Q. 60 or 90 days?

15 A. Yeah, I can't remember that. I think it's
16 90 but I'm not sure.

17 Q. So at the end of that period of time, if
18 they said, okay, my 90 days are up, I'd now like to
19 buy some OxyContin.

20 In order to do that would sales have to
21 submit a remedy review process request under these
22 procedures to have their status changed so that they
23 were eligible to purchase OxyContin?

24 A. That would be -- well, all right, let me go
25 back. They would not be able to purchase oxycodone

1 at all, even if they were eligible to purchase
2 controls. Use alprazolam, why don't we use that,
3 that would be easier.

4 So again, as I mentioned, a customer could
5 either submit the questionnaire and the dispense
6 data and -- oh, I forgot to mention, I'm sorry,
7 photographs of the pharmacy. We also wanted to see
8 that. Because somebody could say, I'm a closed door
9 pharmacy and then you've got -- or they could say
10 I'm a retail pharmacy and there's no front end and
11 that would be like a little sign, because again, we
12 want to verify as much as we can.

13 So they could either submit that directly to
14 compliance by the fax or e-mail, or they can submit
15 that information through the reps. So if the rep
16 has that information, then they would submit it --
17 they could submit it, attach it to the remedy
18 request for a new customer, a new control
19 customer -- an existing customer seeking to purchase
20 controls. So it could come through remedy.

21 And I will say there is one other, because
22 I'm trying to be -- you know, give you -- let's say
23 a customer provides us information through e-mail or
24 fax directly to compliance, and maybe the customer
25 then calls a day later, where am I, what did

1 compliance do, I want to order.

2 And so it could be -- a remedy request could
3 be from the rep: A customer says they submitted
4 this, can you tell me status.

5 And then we would say we're in the process
6 of reviewing or we didn't get everything we needed,
7 or whatever it would be.

8 Q. Okay. The next two sections make reference
9 to review customer compliance notes and review
10 customer notes. And then there are parentheticals
11 for where those are kept in the TPS system. Is that
12 accurate?

13 A. Correct.

14 Q. Okay. Let me ask a different question. As
15 this material is input into the TPS system over
16 time, do old entries get changed or modified or is
17 it kind of a linear process, where new information
18 just continues to be added?

19 MR. MATTHEWS: Objection.

20 A. Notes can never be changed. They are a
21 permanent record and so they are not changed and
22 they are not deleted. They continue on and it's
23 linear. So anybody going in to look at a customer
24 can see the entire history.

25 Q. You can only add to the compliance notes --

1 A. Correct.

2 Q. -- in the TPS system, you can't alter
3 earlier entries of compliance notes in the TPS
4 system?

5 A. That's correct.

6 Q. Okay. And then the next category is review
7 customer questionnaire, and in that category it
8 says -- the first bullet point is: Save new
9 customer questionnaire to O drive if necessary for
10 recordkeeping.

11 That's simply to -- if a customer
12 questionnaire doesn't exist, it needs to be placed
13 into the O drive?

14 A. Or -- and I can't remember at what point,
15 but we said we need -- we wanted a new customer
16 questionnaire every three years. So it may be that
17 they were due -- in order to continue to be eligible
18 for -- to purchase controls, we needed annual
19 dispense data at least. Now, if they were looking
20 for increases, we'd get it more frequently but not
21 less than once a year we'd get dispense data, and
22 that's if they kept ordering at the same rate,
23 otherwise more and then every three years we would
24 get a new customer questionnaire because it is a
25 rather extensive document but we wanted to see how

1 their business had changed and we reviewed
2 everything that came in and we would put it side by
3 side, so yes.

4 Q. The next bullet point says: Record date
5 customer questionnaire is received in TPS flagged,
6 "Y".

7 What does that mean?

8 A. So it's two things, if it's a new customer,
9 a new existing customer applying to purchase
10 controls for the first time and they send a
11 questionnaire, you take the questionnaire, you go
12 back to that initial customer information sheet that
13 talks about their address and their licenses, and
14 you put in the date that you received the
15 questionnaire and you put "Y."

16 The second is, as I mentioned, they put an
17 updated questionnaire. So now you go in and
18 that's -- you change the date to the new
19 questionnaire, and what that does, first of all it
20 makes it the most recent information we've received,
21 so you know, oh, they just received it, so you know,
22 oh, they are not due for one in another six weeks,
23 and it also alerts the analyst who is looking at the
24 file, oh, if they just got it today, and they've
25 been purchasing since 2013, there's another

1 questionnaire in that folder, let me look at both of
2 them, when they are doing analysis.

3 Q. So the existence of a new questionnaire in
4 the file for a particular customer doesn't mean that
5 the old customer questionnaire is deleted?

6 A. Not at all.

7 Q. Okay. In the -- when it says "flag Y", that
8 is simply confirming in TPS that a customer
9 questionnaire is on file.

10 A. Right. If it's not, there is an N.

11 Q. Okay. And then the last bullet point, it
12 says: Determine type of pharmacy reviewing, volume,
13 location, age, et cetera.

14 What is the purpose of that step in the
15 remedy review process?

16 A. Well, let's look at volume first. If this
17 is a customer that is -- dispenses 50 prescriptions
18 a week, and they -- and they are a new customer,
19 let's say they haven't -- let's take a couple
20 examples.

21 They dispense 50 a week and now they have
22 all this information that they want to purchase
23 controls from Anda, we're thinking well, you want to
24 purchase controls, we're not going -- we're going to
25 look at their dispense data and kind of match up,

1 one, do they really need it, is this something --
2 why aren't they getting this from their primary, and
3 certainly it will affect -- impact the volume we
4 agree to provide, if in fact we approve them at all.
5 So that's one, a small or large pharmacy, who do
6 they deal with and location. If they are in a small
7 town and they are dispensing, you know, 3,000 scrips
8 a week, well, we want to know why that is, we want
9 to get more information. Are they located next to a
10 hospital, I mean what's going on here.

11 So that's that one.

12 And then age, if they are open six months
13 and they are already dispensing oxycodone and
14 methadone, we're going to have a concern about that.
15 Why would that be -- why would that be the first
16 thing you're getting as a new pharmacy. I am using
17 different examples but that's the kind of things we
18 would look at.

19 Q. And that information is all recorded in the
20 customer questionnaire?

21 A. Correct.

22 Q. Okay. But the dispensing volume is
23 separately recorded from the -- or is that with the
24 customer questionnaire?

25 A. It's in the O drive with the customer

1 questionnaire.

2 Q. Okay. The next category is conduct
3 necessary research online, doctors, locations,
4 demographics and there are a host of bullet points
5 underneath those.

6 I think they are fairly self-explanatory,
7 but my question is, where are those recorded?

8 A. Those are in the O drive in the customer
9 file.

10 Q. Okay. So if one of your people is reviewing
11 a remedy request to increase a threshold for some
12 type of opioid to a purchaser, and they did some
13 additional research, that research would be
14 contained in the O drive in the customer
15 questionnaire file?

16 A. That is correct.

17 Q. Okay. The next category is, I think, one I
18 just touched upon, the dispensing data from the
19 pharmacy. And there are a number of bullet points

■ [REDACTED] [REDACTED] [REDACTED]
■ [REDACTED]
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■ [REDACTED]
■ [REDACTED]
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█ [REDACTED]

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█ [REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

12 it is. We are not using this for any other purpose
13 other than compliance, and it's just easier to go
14 through that.

15 And we also were aware, particularly, with
16 independent pharmacies, they don't have -- the way
17 they run dispense data may not conform to that
18 standard, so they may send us more information, it
19 may be under alphabetical, it may contain it, but
20 instead of omeprazole being the highest down to, you
21 know, whatever, lisinopril, it could be it starts
22 with, you know, Adderall, and goes to Z, it goes to
23 zolpidem, so determining -- looking at that and
24 making sure, look, we've got to look at the numbers
25 here and it takes more time, but you have to do

1 that. So determining that.

2 Patient and script, we never really wanted.

3 We kept -- you know, cautioning, don't send --

4 that's HIPAA violation. Now, I'm not going to say

5 that didn't get sent, but we would obviously never

6 disclose it, but what we're -- but -- I won't say it

7 wasn't helpful in certain cases, because if the same

8 [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

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So again, when you get that data, it's
instructing whoever's analyzing it to make sure they
understand how this is done. Because they have to
know what their looking at, if they are going to
make an intelligent analysis, they have to know how
this has been presented so you can look at it
accurately.

1 Q. Okay. The next bullet point states:

2 Determine the level of control volume for time
3 frame.

4 And we've switched now to the page of
5 Deposition Exhibit Anda-Brown 5, ending in the Bates
6 number 1408.

7 Can you tell me what that step signifies?

8 A. Well, over a 90-day period, which is the
9 period that we're asking for the dispense data,
10 what's their overall level of controls versus
11 noncontrols, what percentage. I mean, are we
12 seeing -- and we looked at it, you know, so -- total
13 volume meaning number of units dispensed, control
14 versus noncontrol, and then if we look, the next one
15 is ratio. So there's volume and then there is also
16 ratio of, you know, how many pills are they really
17 dispensing here and how does that compare to the
18 number of noncontrols.

19 Q. Okay. When you're looking at the ratio, the
20 higher the number of, say, opioid products that the
21 customer is purchasing as a percentage of his total
22 purchases, the more problematic that potentially
23 becomes?

24 MR. MATTHEWS: Objection.

25 A. It would require additional review based on

1 the individual circumstances of that customer.

2 Q. Okay. Would it be considered a red flag?

3 MR. MATTHEWS: Objection.

4 A. Again, I prefer to say it would require
5 additional review.

6 Q. Okay. The next bullet point is: Evaluate
7 top products dispensed?

8 A. Yes.

9 Q. How is that factor used in the remedy review
10 process?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q. Something about that answer struck me.
14 There's a difference between what the customer
15 purchases and what they dispense, correct?

16 MR. MATTHEWS: Objection.

17 A. Are you talking about purchasing from Anda
18 or purchasing --

19 Q. Yeah. What the customer purchases from Anda
20 versus what they sell to consumers.

21 A. As a secondary, that would be -- as a
22 secondary, that would be across the board controls
23 or noncontrols, that is correct, for a secondary.

24 Q. Right.

25 A. So there is no -- whether it's -- whether

1 it's metformin or omeprazole or hydrocodone, that is
2 true for any product.

3 Q. And what you're evaluating -- are you
4 evaluating both what they're requesting to purchase
5 from Anda, as well as what they're dispensing to
6 customers, to their consumers?

7 A. It could be both or it could be either/or.
8 If we see -- if we see dispense data and I'll give
9 you two -- I'll give you a couple of different
10 examples on that. If we see dispense data where the
11 highest product -- and this did happen on a few
12 occasions -- is oxycodone 30 and their next item was
13 methadone and the next item was hydromorphone 8
14 milligrams. And the guy says. I don't want to
15 purchase any of that from you, I don't even need
16 CII's, I just want to purchase lorazepam, you have a
17 good price on it, we would say no. And our
18 philosophy was, if you wouldn't sell them oxycodone,
19 why would you sell them another control? That was
20 the philosophy from the time I came there. Mike --
21 Mike Cochrane was very clear on that. No, it is
22 either all or nothing. If you're not comfortable,
23 it doesn't matter if they are buying that from us,
24 because we're at the customer level, we're not
25 worried about what they are buying from us.

1 On the other hand, so it doesn't matter what
2 they are buying, doesn't matter what they want to
3 buy from us, we will just not -- don't even turn me
4 on for CII's and just give me lorazepam and give me
5 1,000 a month and we would say no.

6 On the other hand, there would come a time
7 when, you know, we would evaluate percentages or
8 we'd look at a customer and say -- and we do this on
9 a, you know, monthly or quarterly basis, who has
10 been increasing their control ratios or adding --
11 because again, they had limits but who has been
12 adding -- and if they were purchasing more from us
13 and it got to a point where we're looking at --
14 we're seeing that they are purchasing more volume of
15 controls than they had a month earlier or two months
16 earlier or three months earlier, and understanding
17 we're secondary, we very well could say, you know
18 what, we're not comfortable with this pattern
19 anymore and we're not -- it's not one order, it's
20 just we're not comfortable with their pattern and --
21 so we looked at both.

22 Q. Now, the last bullet points under Roman
23 numeral 7 states: For an increase request,
24 determine if dispense data indicates a need for an
25 increase.

1 What does that mean?

2 A. Let's just say they have -- let's say
3 they're at 1200 limit for carisoprodol, could be
4 hydrocodone, whatever it is, and we look on their
5 dispense data and they're only dispensing 1500 or
6 1800 or 2,000. Wait a minute, we're already -- or
7 2500. Wait a minute, why do you need that increase
8 from us. You're not dispensing enough to justify
9 that type of increase. So you know, because again,
10 the more -- that's when you -- that's when you have
11 a little, you know -- and the next -- the next set
12 of analysis comes in.

13 Q. Okay. Now, if one of the compliance team
14 members in your department were making observations
15 about these different bullet points that we've just
16 been walking through on dispensing data, where would
17 they record their observations after having reviewed
18 it?

19 A. They -- they would put that in the customer
20 notes or there are other times they would even, when
21 they respond to the remedy request -- so let's take
22 that last example: Denied, customer only dispensing
23 X number of pills per month, increase not warranted.

24 So they put that in -- in the response to
25 the -- in the remedy and those are also recorded.

1 So you go back, you look at that if it came up
2 again.

3 Q. Okay. Recorded where?

4 A. In the -- in TPS. That would be under
5 remedy -- I'm sorry, remedy, not TPS. My mistake.
6 It would be recorded under -- because would it be --
7 in the response to the remedy, and I think -- and
8 again, I don't want to misstate, it's been a few
9 years, but I think on something like that it would
10 probably also go in the customer notes, something
11 like that.

12 Q. Okay. So it would be back, if we're looking
13 at the last page that we reviewed, ending in 1407,
14 it would be in the customer compliance notes or the
15 customer notes?

16 A. Right. Or again, it could also be in
17 remedy, the remedy notes themselves, because every
18 remedy opportunity -- see, in order to track it, the
19 person who is going through those requests has to,
20 what they call, close them out. So there has to be
21 a disposition. It can't remain -- I mean, it -- I
22 suppose it could remain open if -- the way it
23 remains open is we need more data in order to
24 fulfill this request. And if you don't get the
25 data, you know, so it could be a couple days and

1 it's still open, you know, because we haven't
2 gotten -- we haven't gotten the updated data. So it
3 stays open.

4 But the goal is to get these adjudicated. I
5 mean, you don't want a customer waiting. If there
6 is a problem, you want to get that adjudicated. So
7 you don't really want to have these open forever.
8 You want to get those -- you want to get them
9 addressed as soon as -- as soon as makes -- as it
10 makes sense. I mean we're not here to rush, because
11 it could require more analysis, but -- so when you
12 close out a remedy request, you know, you will
13 always put a reason, this is what happened, it was
14 denied for this reason or approved for this reason.

15 MR. MATTHEWS: Is this a good time to take a
16 break or -- we've been going for a long time.

17 MR. NOVAK: My goal is to get through this
18 document.

19 MR. MATTHEWS: We've been going -- it's a
20 long document and we've been going for well over
21 an hour.

22 MR. NOVAK: If you want a break --

23 MR. MATTHEWS: We've been going for two
24 hours since the last break, so why don't we
25 actually just take a break, I'm exhausted, so

1 five minutes and that will be it.

2 THE VIDEOGRAPHER: Off the record, 12:29 p.m.

3 (Recess from 12:29 p.m. until 1:35 p.m.)

4 THE VIDEOGRAPHER: On the record, 1:35 p.m.

5 BY MR. NOVAK:

6 Q. Mr. Brown, we had been going through various
7 steps in implementation of -- related to the
8 implementation of Standard Operating Procedure 45.
9 I wanted to draw your attention down to what is
10 section Roman numeral 10 of the document that ends
11 in Bates page 1408. This is still Anda-Brown
12 Deposition Exhibit 5 that we're referring to, and
13 the first bullet point under that says: Once
14 eligibility is determined, a customer may request
15 the ability to submit information additional to the
16 due diligence previously provided.

17 My first question with respect to that
18 portion of the document is the due diligence
19 previously provided is a reference to what?

20 A. The customer questionnaire, the dispense
21 data, the policies and procedures that the pharmacy
22 utilizes to dispense controls, the photographs that
23 the customer provides, and included in the customer
24 questionnaire, the names, license numbers, and
25 practice specialties of the top control prescribing

1 physicians, and the most common conditions of the
2 patients, no names, that are receiving controlled
3 substances. That was the standard.

4 As well as in reference to the one above,
5 you know, if there is something in the file that
6 indicates that the customer is using Anda for
7 particular products, particular SKUs or families.

8 Q. And all of that information collectively is
9 what is referred to as the due diligence, as it's
10 referenced here in --

11 A. Yes.

12 Q. The bullet point under Roman numeral 10?

13 MR. MATTHEWS: Objection.

14 A. Yes.

15 Q. And that is all contained in either TPS or
16 in the O drive?

17 A. That is correct.

18 Q. Is there any reflection of the due diligence
19 being performed that is indicated by the entry of a
20 yes or a no similar to what we saw with whether a
21 customer questionnaire had been received?

22 MR. MATTHEWS: Objection.

23 A. A determination of eligibility, so if a
24 customer is approved for controls, there will be a
25 note in the customer notes that will say, you

1 know -- mean, depending on how extensive, but there
2 will be a note that indicates that the customer was
3 approved. It may -- I mean, again, it could be --
4 various things are said, all due diligence reviewed,
5 customer approved for controls. If they are denied
6 for controls, it will say why, you know, top five
7 products were controlled substances, customer denied
8 access to controls. So it will be -- most -- most
9 times it would be in the -- but for eligibility, it
10 will be in the customer notes, in TPS.

11 Q. Okay. Looking back a couple pages, the page
12 ending in 1406, the last bullet point: Determine if
13 the customer is currently flagged Y for controls or
14 new.

15 That's an indication that sufficient due
16 diligence has been performed to authorize the sale
17 of controls, correct?

18 A. That is correct.

19 Q. But not necessarily sufficient due diligence
20 to increase the control limit?

21 A. That is correct, because, I mean, you have
22 to -- so the approval process takes place first.
23 Very rarely at the time, unless there is some
24 specific reason or relationship, is a new customer
25 granted more than the initial limits. It's very

1 rare that they would ever start out on approval with
2 anything more than 1,000, was I think -- was the
3 standard opening limit, and again, that did not
4 include oxycodone or methadone.

5 Q. Okay. Is that what is referred to, again,
6 looking at page 1406, the standard control family
7 allocation of 1K?

8 A. Correct.

9 Q. Okay. How is that measured, 1,000 what?

10 A. Pills, dosage units.

11 Q. So, for example, hydrocodone would be
12 limited to 1,000 pills?

13 A. That is correct.

14 Q. What other opioids would have that initial
15 limit in them once the customer is authorized to
16 purchase controls from Anda?

17 A. When we started or when I started, meth --
18 or hydromorphone was also 1,000. Later on that was
19 added to the -- to the -- oxycodone and methadone
20 limitation, but at the time -- at the time that
21 this, 2012, hydromorphone and oxymorphone were
22 1,000.

23 Q. Okay. Any other opioids that had 1,000
24 limitation on the control family?

25 A. I want to say fentanyl, and that was later

1 changed as well, but at the time it was 1,000.

2 I might add that at the time of 2012,
3 hydrocodone was a Schedule III. I think it was 2014
4 that it was rescheduled.

5 (Anda-Brown Exhibit 6 was marked for
6 identification.)

7 BY MR. NOVAK:

8 Q. We've had marked for identification purposes
9 Deposition Exhibit Anda-Brown 6, which is a two-page
10 document bearing the Bates number Anda_Opioids_MDL
11 56015 and 6.

12 This appears to be a -- well, let me just
13 ask you. Can you identify what deposition
14 Exhibit Anda-Brown 6 is?

15 A. No, I can't. I've never seen this before,
16 before you just handed it to me.

17 Q. Okay. Was there ever a period that you're
18 aware of in Anda's operations, where the procedure
19 for making a determination of what control limit was
20 used, and standard operating procedures for
21 suspicious order monitoring was done, in the manner
22 that is depicted on page 2, under system formula in
23 3.1?

24 MR. MATTHEWS: Objection.

25 A. I'm not familiar with this and I -- I have

1 no knowledge of when or how this may or may not have
2 been utilized.

3 Q. Okay. How in the period of time that you
4 were at Anda as director of regulatory compliance,
5 was a system formula devised to determine orders of
6 interest for a suspicious order monitoring program?

7 MR. MATTHEWS: Objection.

8 A. It was already in place when I started, so
9 I'm -- I really don't have any firsthand knowledge
10 of how that was -- how that formula was arrived. It
11 was -- I just don't have any knowledge of how it was
12 originally arrived at.

13 Q. Well, if we can go back to Deposition
14 Exhibit Anda-Brown 5 for a moment, under the Bates
15 page ending 1403, it states under scope: The
16 directives contained in this SOP apply to all Anda
17 DEA compliance analysts who are involved in the
18 review of a sales order deemed to be of interest.
19 Orders of interest are captured using historical
20 sales information with a user defined time frame by
21 looking at past averages of the following using a
22 user defined multiplier.

23 Can you describe to me what that means?

24 A. I can describe in general terms that, looked
25 at customer sales order and what their sales history

1 was -- has been over a particular time. And to tell
2 you the truth, I don't really remember if it was a
3 rolling 30 days, 60 days, six months, I really -- I
4 don't recall, because it was -- this standard was
5 already in the system that was looking at orders, so
6 it looked at it at a rolling history of that
7 customer's orders and then looking at past averages
8 using a user defined multiplier. I really don't
9 know what that multiplier was. That was, again,
10 part of the IT system that was set up and created
11 before I got there. So I utilized the functionality
12 in terms of what was an order of interest that
13 needed to be reviewed, but I really can't speak
14 specifically as to either the defined time frame or
15 what the multiplier was.

16 Q. Okay. So if I understand your answer
17 correctly, Anda would take an average user -- an
18 average amount that the customer ordered for a
19 particular opioid product, and multiply it by a
20 multiplier and if it exceeded -- if an order
21 exceeded that amount, then the order would be held
22 for review?

23 MR. MATTHEWS: Objection.

24 A. As far -- from a general standpoint, that
25 was, I believe, the methodology that was used to

1 hold orders.

2 Q. Okay. But the average in terms of whether
3 it was a 30-day average or a 60-day, you don't know
4 what it was?

5 A. No, I don't, not at this time.

6 Q. And the multiple, it had to be two times
7 that amount or three times that amount, you don't
8 know what the multiplier was?

9 A. No.

10 Q. And it's not actually set forth in the
11 Standard Operating Procedure Number 40?


12 A. Correct.

13 Q. Did you ever have discussions with the DEA
14 as to what the average -- how the average was
15 calculated or how the multiplier was selected?

16 MR. MATTHEWS: Objection; compound.

17 A. To my recollection, I don't -- in the times
18 that I was with the DEA and met with them and
19 inspections, I don't believe -- I don't remember
20 that coming up.

21 Q. Okay. Do you know if the multiplier was

22 
23 looked at in Anda-Brown Deposition Exhibit 6?

24 A. No, I don't.

25 Q. But basically, the way the orders of

1 interest were determined, is you would take the
2 multiplier and multiply it by the average. If the
3 order exceeded that amount it would be held and one
4 of your people would have to review it?

5 MR. MATTHEWS: Objection.

6 A. Let me just clarify. Nobody did that --
7 nobody on our team ever physically multiplied --
8 used a multiplier. It was the system. It was built
9 into the system as a multiplier that would identify
10 the orders.

11 Q. It was the TPS system that would
12 automatically kick that in and say aha, this is an
13 order of interest because it exceeds some multiple
14 of the customer's average order?

15 A. That is correct.

16 Q. Okay.

17 (Anda-Brown Exhibit 7 was marked for
18 identification.)

19 BY MR. NOVAK:

20 Q. We've had marked for identification purposes
21 Deposition Exhibit Anda-Brown 7 which bears the
22 Bates range, Anda_Opioids_MDL 36508 through 36522.

23 A. Okay.

24 Q. The cover page appears to be, or to record
25 two e-mails sent by Robert Brown, the first to,

1 Brice D. Burchard at the US Department of Justice,
2 and the second one to multiple individuals
3 internally at Anda, and then attached to that cover
4 e-mail are a number of documents.

5 Is that a fair description of the Deposition
6 Exhibit 7?

7 A. That's what it appears to be, yes.

8 Q. Okay. Do you recall responding to a
9 subpoena issued by the US Department of Justice?

10 A. Frankly, we received several subpoenas,
11 whether it be from -- no, I don't -- it wasn't
12 Department of Justice. It was the DEA.

13 Q. Okay.

14 A. It wouldn't have been the department -- it
15 would have been the DEA and we received, you know,
16 various subpoenas from DEA or state boards of
17 pharmacy, you know, with respect to records of
18 particular customers, so I certainly don't recall
19 that one, but --

20 Q. Do you have any reason to believe that the
21 document that is the e-mail from Robert Brown to
22 Brice D. Burchard at US Department of Justice.gov or
23 USDOJ.gov, I should say, and the underlying
24 attachments are a true and accurate copy of what you
25 would have sent to the DOJ?

1 A. Without really seeing what was attached, I'm
2 not -- I mean, I can't -- I can't comment other than
3 what is referenced in the e-mail. I really can't --
4 to be, you know, really clear, I'd really have to
5 see the attachments.

6 Q. Well, the attachments are described in your
7 e-mail to Mr., Bouchard, can you review the document
8 and make a determination as to whether those are
9 indeed the attachments that are depicted?

10 A. Let me see. Well, fighting prescription
11 drug abuse isn't referenced. It's a document that
12 we created, frankly, I created, and we utilized this
13 on our website, we utilized this for our sales team,
14 and for other customers. Let's see, it does say
15 there was a questionnaire attached, but I'm not
16 really sure that the -- you know, when it says
17 questionnaire, is that our questionnaire or is it --
18 again, I don't -- I don't want to speculate because
19 this refers to some subpoena. I don't know if it
20 was a customer subpoena or whether it was a subpoena
21 of our records. Without seeing what was being
22 requested, it was hard for me to -- but, you know,
23 if -- if this was the case -- and I don't know.
24 It's certainly our questionnaire. It is again, the
25 first -- the first part of it is a document that we

1 created in our department to -- for our customers
2 and for people, you know, in our own -- internally
3 as well, to explain what we do and why we do it.
4 It's our customer questionnaire. It is the sample
5 dispensed data that I referred to earlier that, you
6 know, we ask the -- the form in which we ask
7 customers to provide information. It is a revised
8 SOP and this really -- let me see. I'm trying to --
9 I'm just trying to look at one item.

10 There was a revision on this, revised, and
11 where it looks like additional licensure information
12 was added to this SOP and then it was the letter to
13 the DEA that asked that we have -- we asked for our
14 Westin location will be authorized to serve as the
15 central recordkeeping location in accordance with
16 DEA -- the Code of Federal Regulations to keep all
17 records for all of our warehouses.

18 So it -- it might very well be, but I
19 can't -- again, I -- I don't know what the subpoena
20 asked for, so I'm a little bit -- I'm a little at a
21 disadvantage but, you know, it's a -- it's a
22 possibility if that's what they asked for, that's
23 what we sent them.

24 Q. Okay. Just so I'm clear, when you sent the
25 e-mail back to the US Department of Justice and

1 attached three documents, you wouldn't send
2 information to the Department of Justice that was
3 somehow not the documents that you were depicting
4 you sent?

5 A. Oh, no. Although, again, I do want to just
6 clarify. It's not real -- I know the DEA is an
7 enforcement arm of the Department of Justice, but
8 it's not -- we did send it to the DEA and that's who
9 we dealt with.

10 Q. You did e-mail it to an individual at the
11 Department of Justice, correct?

12 A. Well, yes. He has a USDOJ e-mail, yes, he's
13 technically an employee, but again, we looked at it
14 as specifically DEA, yes.

15 Q. Okay. And when you sent the -- let's start
16 with just the Anda SOP Number 28, new account setup
17 information.

18 A. Right.

19 Q. Now, when you send new account setup
20 information to a customer, do you send a whole
21 packet of information that includes more than one
22 document?

23 A. We really don't send anything to a customer.
24 They could either get it online -- they usually
25 would get it online and be able to print it off as I

1 described earlier. It's information needed to set
2 up an account. It would be the customer sending
3 information to Anda, not vice versa.

4 Q. If a customer contacts Anda and says I'd
5 like the information to set up an account, what does
6 Anda send them?

7 A. Again, we might send them -- we might send
8 it but more often than not, more often than not
9 we're going to tell them go online and print it off
10 because then it doesn't get lost in the mail, it's
11 there -- it's not the same chance of something
12 getting lost or misplaced or a document not being
13 there. Chances are, we would -- we would be
14 telling -- we would be asking the customer just
15 print off and send this to us. There may be times
16 we would send it. It wasn't that often, to be very
17 honest.

18 Q. Mr. Brown, I'm Walmart and I'm about to
19 spend a billion dollars on pharmaceutical products.
20 I'm calling up Anda and saying, can you send me the
21 information, the packet of information that I need
22 to fill out to become a customer. What do you send
23 them?

24 MS. CHARLES: Object to form.

25 A. Well, are you talking about new control --

1 new control customer or new customer generally. I
2 just want to be clear, because there is different --
3 there is different information, that's all. I can
4 tell you what we would send them from a
5 control standpoint.

6 Q. Okay. Let's start with that.

7 A. From a control standpoint, we would send
8 them a copy of our customer questionnaire, a copy of
9 our -- a copy of our dispense data format, and we
10 would also send them -- we probably -- in some cases
11 we probably would send them this other item
12 prescription drug -- prescription drug abusive, a
13 team effort -- or fighting prescription drug abuse,
14 a team effort, to explain what we do and why we do
15 it.

16 Q. Okay. So if I understand your answer
17 correctly, what you would send them is the two-page
18 document entitled: Fighting Prescription Drug
19 Abuse, A Team Effort, that is depicted within
20 Deposition Exhibit Anda-Brown 7, bearing the numbers
21 ending in 6509 and 6510.

22 A. Uh-huh.

23 Q. You would also send them the customer
24 questionnaire bearing the numbers ending in 6511 --

25 A. Uh-huh.

1 Q. -- through 6515?

2 A. Uh-huh.

3 Q. And you would also send them an example --
4 or exemplar of the format in which 90 days of
5 dispensing data could be provided from them back to
6 you when they fill out the questionnaire?

7 A. Right.

8 Q. And that's depicted in the MDL numbers --
9 Anda_Opioids_MDL numbers ending with the four digits
10 6516 through 6518?

11 A. Uh-huh.

12 Q. Is that accurate?

13 A. Correct.

14 Q. Okay. So that information goes to the new
15 customer?

16 A. Uh-huh.

17 Q. Let's look at the portion of it that's
18 entitled: Fighting Prescription Drug Abuse, A Team
19 Effort, which is Deposition Exhibit Anda-Brown 7
20 starting at 6509. And the first thing that is
21 referenced there, can you read the first sentence of
22 it for me?

23 A. Prescription drug abuse and diversion have
24 become a nationwide epidemic resulting in more
25 deaths from misuse of prescription drugs than

1 substances such as heroin and cocaine.

2 Q. Okay. So this is you opening a new account
3 with your customer and Anda is providing them
4 information about the problems associated with
5 prescription drug abuse?

6 MR. MATTHEWS: Objection.

7 A. Well, it's really -- that's one -- this is
8 not just used for new customers. Again, we keep it
9 on our website as information to existing customers,
10 to people who can go on the website who may not be
11 existing customers at all, but be able to view what
12 we -- what we do, why we do it, and our -- you know,
13 our -- what are the concerns and how we try to
14 address those.

15 Q. And part of the concerns that you're trying
16 to convey to the customer is that you need to
17 collect a lot of information from them because there
18 is a prescription drug abuse epidemic in the
19 country?

20 MR. MATTHEWS: Objection.

21 A. In order -- well, what we say is, we need to
22 collect information, we know there is an issue and
23 in order for us to allow you to purchase these
24 items, we need to have this information.

25 Q. Okay. Now, the last sentence in that first

1 paragraph at page 6509 states: Currently, Americans
2 account for over 80 percent of the world's
3 population's usage of opioid drugs and 99 percent of
4 the total usage of hydrocodone.

5 Again, is this Anda attempting to educate
6 its customers on the potential abuses associated
7 with opioid products?

8 A. It's explaining why, unless we have --
9 unless we get -- it goes on about knowing a
10 customer, unless we have a comfort level with our --
11 with our customers who are looking to buy these
12 products, we are not going to be able to provide
13 these items and there is, you know, there certainly
14 is an issue with them in terms of addiction, of
15 abuse, et cetera, that is concerning, yes.

16 Q. Okay. And the know your customer segment of
17 this is described in fuller detail in the third
18 paragraph of this communication to a potential
19 customer, which states, quote: Manufacturers and
20 distributors are required to know their customers to
21 whom they are providing controls and maintain
22 suspicious order monitoring systems that identify
23 orders of controlled substances that vary from the
24 customer's normal frequency, size, and pattern.

25 You're conveying to the customer, as part of

1 potentially opening an account with them, that you
2 have to obtain certain know your customer
3 information?

4 A. Uh-huh.

5 Q. I need verbal answers.

6 A. Yes.

7 Q. Okay. And in particular, you need to obtain
8 sufficient information to maintain suspicious order
9 monitoring systems?

10 A. Yes.

11 Q. And to determine whether the orders that
12 those customers submit vary from the customer's
13 normal frequency, size, and pattern?

14 MR. MATTHEWS: Objection.

15 A. Yes.

16 Q. In fact, the frequency, size, and pattern
17 are all part of the suspicious order monitoring
18 regulation, aren't they?

19 MR. MATTHEWS: Objection.

20 A. I -- I don't have it in front of me, but --
21 so I'd have to verify that, but I believe that's the
22 case, that's how it's defined.

23 Q. Okay.

24 A. Or at least listed in the -- in the code.

25 Q. And then if we look at the next page of the

1 information that's provided to a potential new
2 customer, it starts at the top of the page: We also
3 ask our customer to provide dispense data that lists
4 the total dosage units and number of prescriptions
5 for each prescribed product sold over the previous
6 90 days in descending order so that we have a
7 understanding of a customer's total volume, overall
8 product mix, control product mix and average number
9 of pills dispensed per prescription for each
10 dispensed item.

11 That also is communicated to the customer?

12 A. That's correct.

13 Q. And all of that information is incorporated
14 into the standard operating procedures that we
15 reviewed earlier today?

16 MR. MATTHEWS: Objection.

17 A. I can go back to that, but yes, I believe
18 that is the case, yes.

19 Q. Okay. Part of the performance of your
20 responsibilities at Anda involved keeping yourself
21 apprised of information as it related to the
22 existence of an opioid product epidemic, did it not?

23 MR. MATTHEWS: Objection.

24 A. Certainly I was required to maintain current
25 knowledge of controlled substance trends, issues,

1 concerns, policy determinations, changes in
2 statutes, regulations, yes.

3 Q. Okay. And part of that was also keeping
4 your staff informed about the nature of a
5 prescription drug opioid epidemic, was it not?

6 MR. MATTHEWS: Objection.

7 A. Again, my responsibility was to inform our
8 staff about all or most current developments and the
9 most current statutes and regulations and findings
10 dealing with controlled substances, both if they
11 were -- if there were changes in state issues, if
12 there were changes in federal issues, trends,
13 et cetera. So it's a pretty broad responsibility in
14 terms of knowledge base and sharing of information.

15 Q. Okay. And part of changes in federal issues
16 or trends that you provided to staff included
17 information about the nature of the opioid epidemic?

18 MR. MATTHEWS: Objection.

19 A. As -- as a -- as information came out,
20 again, in the context of controlled substances,
21 dealing with all -- dealing with many types of
22 issues, yes.

23 Q. If you can go back a moment to Anda-Brown
24 Deposition Exhibit 3, if you look at the top of an
25 e-mail, and this is the page of Anda-Brown

1 Deposition Exhibit Number 3 ending in 8068, if I'm
2 reading the numbers correctly, and that's just a
3 vision thing.

4 A. Sure. Got it. Got it.

5 Q. There you write to various members of your
6 staff: The latest DEA report on drug abuse can be
7 found using the link below. The findings are that,
8 while prescription drug abuse is declining, there
9 are more deaths due to overdoses of prescription
10 drugs than illegal items. Heroin use is increasing.

11 You wrote that to your staff?

12 A. Yes.

13 Q. And you were doing that to make them
14 appreciate the importance of what they were doing?

15 A. Yes. And -- well, not only appreciate the
16 importance, but making sure that they understood
17 when they were doing it every day, what was going on
18 in the country, and what had was -- or DEA was
19 finding and how they viewed these items, yes, so
20 it's -- you know, it's a -- yes, it's a combination
21 of things. It's a very important -- we always
22 stressed that, yes, we have a very important role
23 and this was from the company level at all --
24 company at all levels to help protect the public and
25 do the best we could to protect the public and also,

1 you know, we had a huge responsibility, but -- and
2 also to inform our staff of the latest developments
3 so they understood industry trends.

4 And if I may add, one of the things that,
5 you know, we ran into, although as time went on less
6 and less, was customers would say, ah, nobody else
7 asks for this information, nobody else got a
8 questionnaire and dispense data, you know, and we
9 wanted to have -- but they don't always -- they
10 don't talk to compliance all the time unless there
11 is an issue. They talk to salespeople and we wanted
12 to give salespeople -- we also met with sales on a
13 regular basis to verbal -- and sometimes written,
14 this type of information, so if their customer says,
15 what do you -- why is your company asking me to do
16 this, they had a little bit of conversation about
17 why this -- why the company insisted that we get
18 this information, so --

19 Q. Which is also, in part, why you included
20 that information on the exhibit we looked at a
21 moment ago?

22 A. Correct.

23 Q. In conveying it with the customer
24 questionnaire packet when you were opening a new
25 account?

1 A. Correct. Correct.

2 (Anda-Brown Exhibit 8 was marked for
3 identification.)

4 BY MR. NOVAK:

5 Q. We've had marked for identification purposes
6 Anda-Brown Deposition Exhibit 8, which is a document
7 bearing the Bates number Anda_Opioids_MDL 560658
8 through 560660. The only portion of the exhibit
9 that I will ask you about is the page ending in
10 60658.

11 There is an e-mail there authored by you on
12 December 6th, 2013, to Thomas Skono. Who is
13 Mr. Skono?

14 A. Mr. Skono, I believe his title was, vice
15 president of a buying group, a large buying group
16 and a -- throughout the pharmaceutical industry,
17 especially among retail pharmacies, there are many
18 buying groups that band together. They join a group
19 that has a central office and part of what that
20 group's responsibility is, a major part of it, is to
21 negotiate pricing with their various suppliers. So
22 if a buying group represents 500 pharmacies and you
23 sign a contract with, you know, whether it be
24 McKesson or Anda or ABC, to -- we'll buy product
25 from you but we need certain -- what kind of pricing

1 can you get, we're buying in volume and it's a
2 negotiated type of deal and buying groups are really
3 set up primarily for that purpose, to buy product en
4 masse supporting the independent pharmacies. A
5 chain like Walgreens, they are all -- they do that
6 on their -- that's a big chain, but this is allowing
7 independent pharmacies to have some type of buying
8 power.

9 So Epic is a very large buying group and
10 they are pretty much nationally, I believe, and they
11 were a very large customer of Anda and they had
12 pharmacies around the country, but we -- as much as
13 they were a big customer, we frankly did not approve
14 a lot of the pharmacies that they presented to us
15 for controls because we were concerned about the
16 dispense data and some of the other information we
17 had received from these pharmacies, and part of it
18 was the location, the geographic location, which I
19 mentioned before, and there were a fair amount of
20 pharmacies in -- from Epic that were located in the
21 Maryland, Virginia, DC area, and I was -- we had
22 communication. I believe in educating customers and
23 I sent him this saying, look Tom, you've got all
24 these pharmacies and let me show you what the
25 perception is of the DEA in, you know -- of the drug

1 abuse issues and prescription drug items.

2 So, you know -- and I don't -- to tell you
3 the truth, I don't recall right offhand if this was
4 prompted by a conversation I had from Tom saying,
5 why aren't you approving more customers or I just
6 volunteered, because we had a regular communication
7 and, you know, I might have just -- said Tom, I just
8 want you to see what's going on here.

9 Q. Okay. And specifically what's going on or
10 what you're referencing is when you wrote to him:
11 Take a look at the first article in the attached,
12 the DEA claims that 10 percent of Baltimore's
13 population is addicted to heroine and that 85
14 percent began by using prescription drugs.

15 You were conveying that to him to make sure
16 he was aware of the linkage between prescription
17 drug abuse and heroin addiction?

18 MR. MATTHEWS: Objection.

19 A. That was only a part of it. What I really
20 was trying to show him is this is the DEA's
21 perception of Baltimore, an area where you have a
22 good amount of pharmacies. I'm not verifying -- I'm
23 not vouching for whether this is correct or isn't.
24 In terms of, is it true -- or 10 percent or -- I
25 don't know, that's the DEA saying it, but I am

1 trying to convey that you have pharmacies in an area
2 that the DEA has identified as extremely
3 problematic, and basically, we're going to be taking
4 a very close look at approving pharmacies in that
5 area with this in the back of our mind as our SOP
6 talks about city/state location, which we discussed
7 earlier and this is an example of that. So I just
8 wanted to make him aware.

9 MR. NOVAK: Take a quick five minute break
10 so I can move some paper around.

11 THE VIDEOGRAPHER: Off the record, 2:21 p.m.
12 (Recess from 2:21 p.m. until 2:31 p.m.)

13 THE VIDEOGRAPHER: On the record, 2:31 p.m.

14 BY MR. NOVAK:

15 Q. Mr. Brown, do you know who Buzzeo is?

16 A. Yes. It has gone -- it's undergone -- it's
17 a company that's undergone several iterations. It
18 was started by a former DEA executive, Ron Buzzeo,
19 it later became BuzzeoPDMA, it became Quintiles, I
20 think it was then -- and I can't remember the name
21 of the information service that -- the data that
22 they provide. And then it was -- I think it is
23 IQVIA, now I believe. So yes, I am familiar. They
24 are a consulting company and they do a variety of
25 things in the pharmaceutical industry and various

1 consulting.

2 Q. During the time that you were director of
3 regulatory compliance at Anda, did you contract with
4 BuzzeoPDMA?

5 A. We did to -- we -- it was a two-pronged
6 approach. One was to do a review of our entire
7 suspicious order monitoring system, which
8 included -- includes our customer due diligence and
9 what we do to vet customers and gather information,
10 and then also to look at the electronic system and
11 see if there were ways of upgrading or enhancing, I
12 should say, that system, because that's something
13 that they had indicated they, you know, they had a
14 system that's -- you know, that they wanted them to,
15 at least, look at ours and kind of compare it.

16 If I may add, we ultimately did engage them
17 to develop a new -- an enhanced electronic order
18 system.

19 (Anda-Brown Exhibit 9 was marked for
20 identification.)

21 BY MR. NOVAK:

22 Q. We've had marked as Anda-Brown deposition
23 Exhibit 9, a document that is comprised on the front
24 page of an e-mail from Mr. Brown to Thomas Napoli --
25 yeah, from Mr. Brown to Thomas Napoli, dated

1 November 12, 2015, and it states: Attached please
2 find the report from BuzzeoPDMA. Did you utilize
3 any of the elements of the system that they
4 proposed, and if so, is this something we could look
5 at as we analyze potential revisions to our current
6 system? Thank you.

7 Do you recall receiving -- oh, that was the
8 e-mail that is the cover page of Anda Deposition
9 Exhibit 9.

10 A. Yes.

11 Q. There is also attached to it, correspondence
12 from BuzzeoPDMA dated November 12 of 2015, addressed
13 to you. Is this a compliance audit that you
14 requested BuzzeoPDMA perform for Anda?

15 MR. MATTHEWS: Objection.

16 Q. Of the suspicious order monitoring program?

17 MR. MATTHEWS: Objection.

18 A. We requested that Buzzeo come and do an
19 assessment of our, you know, of our then current
20 practices and procedures to give us an idea -- we
21 were always in a position of trying to enhance what
22 we had, always looking for, are there ways we could
23 be better.

24 (Anda-Brown Exhibit 10 was marked for
25 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as deposition
3 Exhibit Anda-Brown Deposition Exhibit 10, an e-mail
4 and document that came the day after --

5 A. Uh-huh. Okay.

6 Q. -- number 9 and this is an e-mail from B.
7 Williamson at USIMS Health to you, that attaches a
8 slightly revised version of the BuzzeoPDMA
9 suspicious order monitoring audit; is that correct?

10 A. Uh-huh. Yes.

11 Q. Okay. And you recall receiving this
12 document?

13 A. Yes, I do.

14 Q. Do you recall offhand what the minor
15 modifications were between the document that came in
16 on November 12th, and the ones that came in on the
17 13th?

18 A. No, I'd have to review both side by side.

19 Q. Okay. I'd like to direct your attention
20 first to the page of Buzzeo's suspicious order
21 monitoring assessment ending in Bates number 9142.

22 A. Okay.

23 Q. The second paragraph there states, roughly
24 midway through: Robert Brown, the director of
25 regulatory affairs at Anda was the lead point of

1 contact for the review. Director Brown provided
2 background information, including SOM procedures for
3 the review and organized a series of meetings with
4 Anda's SOM staff to allow consultants to observe SOM
5 procedures at Anda firsthand.

6 Do you see that?

7 A. Yes.

8 Q. Is that an accurate characterization by
9 Buzzeeo of the role that you played in assisting with
10 their performance of this suspicious order
11 monitoring assessment?

12 A. As I recall, I facilitated their visit and,
13 you know, scheduled the people to speak with and
14 organized that, yes.

15 Q. Okay. And you facilitated a meeting that
16 the BuzzeeoPDMA people had with Michael Cochrane, the
17 Executive Director of Regulatory Compliance at Anda?

18 A. Yes, let me clarify, that Michael and I did
19 this jointly, but I was -- and he said, go ahead and
20 handle it, so I did. I mean, asking them for the
21 assessment, you know, entering the agreement, having
22 the engagement was all done in coordination with
23 Michael. It was not done independently or without
24 knowledge, let's put it that way.

25 Q. Okay. Also, the last sentence of that

1 paragraph states: There was an opening and closing
2 meeting with the aforementioned individuals and
3 Charles Phillips, President.

4 Is that consistent with your recollection?

5 A. It is consistent with my recollection, yes.

6 Q. Charles Phillips is the President of Anda?

7 A. That is correct.

8 Q. Okay. The next paragraph makes reference to
9 Anda as a secondary drug wholesaler, and then in the
10 last sentence it notes that the firm is the primary
11 supplier for Publix and the sole secondary supplier
12 for Walgreens.

13 Is that accurate?

14 A. It was as of whatever date this was written,
15 yes.

16 Q. Okay. Do you know, roughly, how many Publix
17 pharmacies Anda served as the primary supplier?

18 A. I don't. You know, I'd be offering a guess
19 and I don't know. I know we reviewed data from all
20 of them and I know that we, you know, we worked
21 closely, but I really -- it may have been 100, but I
22 hate to hazard a guess, may have been a couple
23 hundred. I just don't remember.

24 Q. In your role as primary supplier to Publix,
25 were you also primary supplier for their controlled

1 Schedule II narcotics?

2 A. Yes.

3 Q. Including all opioids?

4 A. Yes.

5 Q. Okay. For Walgreens, where Anda served as
6 the sole secondary supplier, do you have a rough
7 estimate as to how many Walgreens stores Anda served
8 that exclusive secondary supply function for?

9 A. There is something -- 4,000, but I -- you
10 know, it's just something, again, I haven't reviewed
11 anything and it's -- I don't recall the exact
12 number. I just -- that sounds like a figure but it
13 could be something else.

14 Q. I'd like to direct you to the next page,
15 which ends in Bates number 9143, and looking at the
16 first paragraph, roughly six lines down, there is a
17 sentence that starts: Although there have not been
18 any major official sanctions, the DEA has conferred
19 with Anda leadership on multiple occasions. What
20 appeared as routine regulatory investigations in,
21 Groveport, Ohio and in Westin, Florida, were not
22 closed for long periods of time.

23 Do you see that reference?

24 A. Yes.

25 Q. Is that consistent with your understanding

1 as to the regulatory investigations that occurred at
2 Groveport and Westin?

3 MR. MATTHEWS: Objection.

4 A. I do know there were -- there were some
5 delays in the Groveport, Ohio, and Westin, I know it
6 took -- it took -- the recertification took about
7 almost a year, but I will say that what the DEA
8 informed us on that was, that they just weren't in
9 any hurry because we were operating and they didn't
10 have any major concerns.

11 Q. Now, we haven't really talked much about the
12 distribution facilities for Anda. There were three
13 main distribution centers at the company during the
14 time that you were there, correct?

15 A. Yes.

16 Q. And those were located at Groveport, Ohio,
17 Westin, Florida, and Olive Branch, Mississippi?

18 A. That's correct.

19 Q. And the vast majority of the controlled
20 Schedule II narcotics that Anda delivered to its
21 customers, including almost all the opioids, went
22 through the Groveport, Ohio, facility, is that
23 correct?

24 MR. MATTHEWS: Objection.

25 A. To the best of my recollection.

1 Q. Okay. Over 90 percent?

2 A. I don't know that amount.

3 Q. Now, down at the bottom of this page,
4 BuzzeoPDMA's suspicious order monitoring assessment,
5 there is a reference to a regulatory foundation. Do
6 you see that?

7 A. Yes.

8 Q. Okay. And then a CFR regulation ending in
9 section 1301.74 --

10 A. Yes.

11 Q. -- is cited there. Is that the regulation
12 that governs the obligation for creating a system of
13 detection and disclosure of suspicious orders?

14 MR. MATTHEWS: Objection, he can offer
15 testimony as to his understanding but he's not
16 here to testify about the law.

17 MR. NOVAK: I'll -- you're right.

18 BY MR. NOVAK:

19 Q. Is that your understanding as to what the
20 regulation is that forms the basis for the
21 suspicious order monitoring system that you worked
22 on at Anda?

23 A. That -- the language describes suspicious
24 order -- a suspicious order system, that the
25 requirement that each registrant have some type of

1 system with respect to suspicious orders, yes.

2 Q. And specifically that parenthetical B
3 states: That the registrant shall design and
4 operate a system to disclose to the registrant
5 suspicious orders of controlled substances.

6 That is consistent with your understanding?

7 A. That's the language of this provision.

8 Q. And then the second sentence of sub-B
9 states: The registrant shall inform the field
10 division office of the administration in his area of
11 suspicious orders when discovered by the registrant.
12 Suspicious orders include orders of unusual size,
13 orders deviating substantially from a normal
14 pattern, and orders of unusual frequency.

15 Earlier we talked about pattern, size, and
16 frequency as being the three factors in evaluating a
17 suspicious order, and I think your testimony was you
18 weren't sure if those track the regulation. Are you
19 comfortable now with saying that they --

20 MR. MATTHEWS: Objection.

21 A. That -- that wording is contained in the
22 statute, yes, those prove -- those items, yes.

23 Q. Okay. If you can go to the next page of
24 Buzzeo's suspicious order monitoring assessment of
25 Anda, there is a paragraph there that states as

1 follows: According to staff, questionnaires are
2 mostly received electronically. Anda has four
3 employees assigned to SOM compliance activities.
4 All staff workers can access any SOM customer
5 account and work in the account.

6 I'll stop there. Is that an accurate
7 depiction as to how the -- how many staff were
8 employed and assigned to SOM compliance activities?

9 A. At that time I'm trying to remember if it
10 was four. No, I think -- they met four but there
11 was another individual who worked in -- island -- up
12 by Niagara Falls in our office there, and he was
13 also on staff and a very -- a senior member. So in
14 total, there were six including myself.

15 Q. Okay. So you, James Gatto, that was the
16 individual?

17 A. Yes.

18 Q. Sabrina Solis, Mary --

19 A. Barber.

20 Q. -- Barber and the other two?

21 A. At that time it was Latoya Samuels and Tasha
22 Campbell and then Sabrina was actually reassigned to
23 the licensing portion of the compliance, because
24 they were also dealing with some other -- they also
25 gained some additional responsibilities in that

1 division, so Sabrina worked under Emily Schultz and
2 we brought in a gentleman named John Kincaide, who
3 had been in the contracts department. So we didn't
4 lose anybody, the numbers stayed the same, but
5 Sabrina was reassigned at that point.

6 Q. Okay. I'll continue with the paragraph that
7 we've been looking at. It continues: New
8 questionnaires are assigned to the next available
9 staff worker. It was reported by management that
10 customer due diligence activity, including checking
11 registrations and licenses, formatting and analyzing
12 prescription data, reviewing distances of patients
13 and physicians from the pharmacy, conducting
14 Internet research on the pharmacy and the primary
15 prescribers, reviewing professional board websites
16 for disciplinary action and physician training or
17 certifications and using Google maps for photographs
18 of the pharmacy in the area.

19 Is that an accurate depiction of the due
20 diligence activity that Anda's staff are involved
21 in?

22 MR. MATTHEWS: Objection.

23 A. Generally, yes. Yes.

24 Q. At that time?

25 A. Yes.

1 Q. And when I say at that time, I mean 2015.

2 A. Correct.

3 Q. Okay. Now, the next paragraph begins: The
4 process used to investigate these new applications
5 is referred to as the remedy review process.

6 Now, we looked at the remedy review process
7 this morning as Standard Operating Procedure 45 that
8 was contained in one of the previous deposition
9 exhibits. Is that the remedy review process that's
10 referenced here?

11 A. Yes.

12 Q. Okay. As a matter of policy, new accounts
13 may not order methadone or oxycodone and may not
14 order more than 1,000 of any controlled substance.

15 Consistent with your understanding as to the
16 policy at that time?

17 A. Yes, at that time, yes.

18 Q. An additional review will be required to
19 order methadone or oxycodone and/or to increase the
20 customer's order threshold.

21 Again, consistent with your understanding?

22 A. Yes.

23 Q. Now, down at the very end of the next
24 paragraph it states in the final sentence: It was
25 also reported that the compliance department

1 requests fresh dispensing data every year and a new
2 questionnaire every three years.

3 I think your testimony this morning had
4 touched upon the every three years for the customer
5 questionnaire. I don't recall. Did you also
6 identify that there was requests for fresh
7 dispensing data every year?

8 A. Yes, I did say that, and I said, at minimum
9 once a year because in the event that they wanted to
10 be eligible for methadone or oxycodone or have a
11 limit increase, that they would have to provide
12 dispense data, so it may have been more than once a
13 year, but a minimum once a year, yes.

14 Q. Okay. Going to the next page of the Buzzeo
15 assessment of Anda's suspicious order monitoring
16 policy, I'll direct you first -- and this is the
17 page ending in Bates number 9146.

18 I'll direct you first to the top paragraph,
19 under electronic analysis of orders. And it starts:
20 Anda's electronic SOM system is described in SOP040.

21 Is that the standard operating procedure we
22 were reviewing this morning?

23 A. Yes, it is.

24 Q. It continued --

25 A. Let me just clarify. It may have been

1 updated or revised because I believe that copy was
2 2012, and it may have been revised as of 2015, but
3 basically, yeah, I mean -- I mean, I don't know if
4 that was -- again, I don't know which version that
5 they looked at, I just wanted to clarify, that's
6 all.

7 Q. There are -- and let's take a break and talk
8 about that for just a quick second.

9 A. Okay.

10 THE VIDEOGRAPHER: Are we going off the
11 record?

12 MR. NOVAK: No. No. No.

13 Q. The standard operating procedures that we
14 reviewed this morning, SOP 28 for new customers,
15 SOP 40 for suspicious order monitoring, and SOP 45
16 for the remedy review program, all of those are
17 subject to review by compliance officials at Anda on
18 an annual basis, correct?

19 A. That is correct.

20 Q. And they're evaluated to determine if any
21 tweaks or revisions to them are necessary?

22 A. That is correct.

23 Q. And they are also signed off upon even if no
24 revisions are made to reflect the fact that they are
25 revised on an annual basis?

1 A. That is correct.

2 Q. Or I'm sorry, reviewed on an annual basis?

3 A. Correct.

4 Q. Okay. Now, going back to that top

5 paragraph --

6 A. Yes.

7 Q. -- at the page ending in 9146 of Anda-Brown

8 Deposition Exhibit 9 --

9 A. I think this is 10.

10 Q. Oh, 10, I want to continue with the
11 description of SOP 40. This procedure uses the term
12 orders of interest to describe customer orders that
13 are held or pended for additional investigative work
14 to determine whether the orders would be considered
15 suspicious and reported to the DEA as required by
16 the regulations.

17 Is that from your perspective an accurate
18 characterization of the procedure?

19 A. Yes. I mean, if I was changing the wording,
20 I might say whether the orders are valid or are
21 suspicious, because we're -- I mean, every order is
22 looked at to, you know, determine are -- is it a
23 valid order, is it safe, so I mean it's not just --
24 it's a two-way deal. Every one in this -- we have
25 to be comfortable that it's a -- that it's a valid

1 order. So it may be semantics, but it's a -- you
2 know, it goes both ways.

3 Q. Okay. The next sentence states: According
4 to the SOP, the system performs calculations based
5 upon customer historical user averages which are
6 multiplied by a defined multiplier to establish a
7 basis for pending an order for additional
8 investigation.

9 Is that, in your view, an accurate
10 characterization of SOP 40?

11 A. I believe that it is, yes.

12 Q. Okay. I wanted to go back to SOP 40 for a
13 moment to be sure we are tracking the language
14 correctly in this next part. It is Anda-Brown
15 Deposition Exhibit 5, and specifically the page of
16 Anda-Brown Deposition Exhibit 5 which ends in 1403.

17 A. Uh-huh.

18 Q. Now, in Anda-Brown Deposition Exhibit 5, it
19 states: Orders of interest are captured using
20 historical sales information with a user defined
21 timeframe by looking at past averages of the
22 following using a user defined multiplier.

23 And when you provided testimony this
24 morning, you could not recall the period of time
25 over which the averages were calculated or the

1 multiple that was used and they were not disclosed
2 in Standard Operating Procedure 40.

3 A. Uh-huh.

4 Q. There is, however, in the next paragraph of
5 Anda-Brown Deposition Exhibit 10, some more detailed
6 discussion of that, I believe in the second
7 paragraph, so let's go through that.

8 The first sentence of that second paragraph
9 of Anda-Brown Deposition Exhibit 10 States:

Row	Bar Description
1	Full-width bar
2	Bar ending at approximately 85%
3	Full-width bar
4	Full-width bar
5	Full-width bar
6	Bar ending at approximately 95%
7	Two segments: one at ~35% and another at ~45%-85%
8	Bar ending at approximately 45%
9	Two segments: one at ~25%-80% and another at ~85%-95%
10	Full-width bar
11	Bar ending at approximately 95%
12	Bar ending at approximately 85%
13	Full-width bar

23 A. Yes, and -- and I believe, again, because I
24 hadn't read these in quite a while--

25 Q. Sure.

1 A. -- that bullet number 4 does state that, and
2 I just noticed that myself.

3 Q. Ah, how did we -- how did we both miss that?

4 A. Exactly. Exactly.

5 Q. Okay. And then the next part of Buzzeo's
6 suspicious order monitoring assessment states: No
7 additional information regarding SOM attributes is
8 contained in the SOP. However, during interviews

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■ ██
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17 purposes of flagging an order of interest and
18 suspicious -- I'm sorry, in Standard Operating
19 Procedure 40?

20 A. In seeing that, I do recall that that's what
21 I was told I mean by whoever -- somebody who had
22 first hand knowledge of when it was put in and how
23 it was created.

24 Q. Okay. So if I understand it correctly, for
25 an order to be flagged as an order of interest, it

■ [REDACTED]

2 a customer's typical historical order?

3 MR. MATTHEWS: Objection.

4 A. Again, not having designed it or really been
5 involved with the design, I can only speculate that
6 that's what -- that was my understanding from people
7 who actually did, you know, design that system.

8 Q. Okay. Well, we now know it's a rolling

■ [REDACTED]

■ [REDACTED]

11 when an order of interest is flagged for compliance
12 to review, correct?

13 A. Based on -- based on this information. I
14 can't tell you I have independent recollection, but
15 based on this information, I would say that sounds
16 like, from these two documents, that sounds like
17 this is -- this is how it worked.

18 Q. Okay. So as the director of regulatory
19 compliance during that time period at Anda, you

■ [REDACTED]

21 other than just seeing it in this document?

22 A. Again, I recall being told that that was the
23 case.

24 Q. Okay.

25 A. Yes, I do -- I do recall being told that.

1 Q. Okay. Now, in understanding how this works,

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8 MR. MATTHEWS: Objection.

9 A. Well, let's keep in mind something. There
10 were limits. So the order would never go through if
11 it exceeded limits. If it exceeded monthly limits,
12 no order would go through, so it's not just as --

■

■

15 go if it exceeded the monthly limit.

16 Q. Because there were limits in addition to the

■

18 A. Correct.

19 Q. Okay. However, those limits could be

■

21 dispensing particular opioid classes to customers
22 increased above the limit, correct?

23 MR. MATTHEWS: Objection.

24 A. No. It wouldn't be automatic. The only way
25 limits are increased and it goes through that in

1 SOP 25 -- 28, or is it 45? 45, the only way that

■

■

4 rolling period, it has to do with the information
5 that a customer provides to indicate why they should
6 be -- why they should have their limit increased,
7 what justification there is, what is it about their
8 business, their dispense data, reason for
9 purchasing. So it's -- that determination is not
10 made on any kind of formula. It's made on an
11 individual customer basis.

12 Q. Right. So in the example we were talking
13 about for OxyContin, a customer of Anda would not
14 get to a 2,000 pill per month average unless Anda
15 had performed a remedy review process as outlined in
16 Standard Operating Procedure 45 and satisfied
17 themselves that that 2,000-pill average was
18 appropriate for that customer?

19 A. That is correct, and that's after they've
20 gone through a period of time of buying controls
21 other than oxycodone and methadone that would then
22 enable them to -- to provide enough information to
23 even justify or enable us to consent to selling them
24 any oxycodone and that would be 1,000 to start out.

25 Q. Right?

1 A. So yeah. I think we've summarized that,
2 yes.

3 Q. But just to be clear, Anda did have
4 customers when you were there that ordered 2,000
5 pills per month of OxyContin?

6 A. That is correct.

7 Q. In fact, Anda had some customers that
8 ordered much more than 2,000 pills per month?

9 MR. MATTHEWS: Objection.

10 A. I'd have to go back and look. To my -- the
11 best of my recollection, there were some customers,
12 yes.

13 Q. Okay. And they would have gotten to those
14 higher levels by virtue of Anda's compliance people
15 performing a remedy review process, pursuant to
16 Standard Operating Procedure 45, that would have
17 enabled them to increase their limits.

18 A. That is correct.

19 Q. Okay. Once they got those increased limits

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■ ██

25 MR. MATTHEWS: Objection.

1 A. Only if they got to -- if they were allowed
2 to that limit to begin with.

3 Q. Right.

4 A. If they were allowed that limit to begin
5 with, then, you know, I would say that we were
6 comfortable enough in -- comfortable in allowing
7 them to purchase that amount because we set that
8 limit based on the information that they provided
9 us.

10 Q. Okay. Well, let's go back for a minute to
11 Standard Operating Procedure 40, that is Anda-Brown
12 Deposition Exhibit 5, and there are a number of
13 bases upon which a particular limit may be
14 increased, that are articulated there?

15 A. 44 -- 45, right?

16 Q. Well, let's look first at the ones that are
17 in 40.

18 A. Actually, 40 does not deal with increased
19 limits. 40 deals with whether orders are -- what
20 happens in an order review process.

21 Q. Okay. Well, let's look at the bottom of the
22 page ending in Bates number 1404. And it states the
23 following are release reasons for held orders. Do
24 you see that?

25 A. Yes.

1 Q. So if an order is held let's say because it
2 exceeds the customer's limitation for OxyContin of
3 1,000 by --

4 MR. MATTHEWS: Objection.

5 Q. -- by 200 pills, so they ordered 1200 and
6 they are at 1,000 limit.

7 MR. MATTHEWS: Objection.

8 Q. Would the release reasons specified at the
9 bottom of page 1404 of Deposition Exhibit 5 be bases
10 upon which the customer's order could be released?

11 MR. MATTHEWS: Objection.

12 A. Well, really, there are eight reasons, as I
13 continue on to 1405 as well.

14 Q. Okay. And those eight reasons would, with
15 the appropriate due diligence being performed, allow
16 someone on your compliance team to release an order
17 that exceeded the 1,000-pill limit for OxyContin?

18 MR. MATTHEWS: Objection.

19 A. The limit would have to have been raised
20 before the order is released. They couldn't order
21 1200 unless they were allowed to order, which means
22 the limit would have to be increased, and then
23 oftentimes it would be -- depending on the customer
24 history, it would be flagged because it was the
25 first time they ordered that much, or -- and/or --

1 remember we talked a little bit about a secondary,
2 being a secondary supplier. And customers
3 generally, not all the time, but generally customers
4 who order from a secondary supplier order them --
5 make those orders when their primary is either out
6 or has a higher price or doesn't have that
7 particular item. So it's not a consistent ordering
8 pattern. So it may not be -- so they may order
9 something -- they may order 800 of something in June
10 and they don't order another, that same product
11 again until November. Well, the order would flag
12 and we want it to flag because at least we want to
13 see, oh, what are they ordering here, and it might
14 flag for that purpose but in the meantime they
15 needed 1200, because they said, we only ordered 8,
16 but we normally dispense 15,000 and we need to -- we
17 have a doctor who likes this product, this SKU and
18 you are the ones who carry it and you have a better
19 price, and they put all that in writing with the
20 doctor and the patient and all that, and we say
21 fine, but we'll approve that limit, but a lot of the
22 orders really hit because there is no established
23 pattern because it's a -- we're a secondary
24 supplier.

25 Q. Okay. In that answer you suggested that the

1 customer may typically order 15,000 units of
2 OxyContin?

3 A. No. I said they may dispense a total -- a
4 total of 15,000, they want to go from 1,000 to 1200
5 or 1,300 from us. They want an extra 13 -- your
6 example, 1200, they may want an extra 200. They
7 give us the reasons and we go back and say well,
8 they do 15,000 a year and their Metformin is at
9 50,000, it's a whole analysis.

10 But, I guess, what I'm saying is many
11 customers who are second -- who utilize -- who order
12 from their secondary are not necessarily ordering
13 the same product in the same quantities month after
14 month after month.

15 Q. Okay. It makes it more challenging for Anda
16 to figure out what a pattern of typical ordering is?

17 MR. MATTHEWS: Objection.

18 A. Correct. Which is why -- yes, that's
19 correct.

20 Q. And for that matter, Anda needs to obtain
21 dispensing data not only for the opioids that the
22 customer provides from Anda, but also the opioids
23 that the customer dispenses that it bought from its
24 primary supplier?

25 MR. MATTHEWS: Objection.

1 A. Again, I would just -- I would just change
2 it to it's not just opioids, it's all controls and
3 frankly, it's noncontrols as well because we look
4 for that -- you know, conversely, if they are buying
5 three noncontrolled products from us and that's all
6 they are buying and those are the only noncontrolled
7 products they are buying because we see what else
8 they have dispensing from other people, that's
9 another issue. That's why we need to see the whole
10 picture.

11 Q. Okay. You understand we're talking today
12 and we're here because of an opioids epidemic, not
13 because of dispensing of other types of drugs,
14 right?

15 MR. MATTHEWS: Objection.

16 A. I understand, but if we're going to describe
17 the factors that we reviewed in determining whether
18 we were comfortable selling product, opioid -- if
19 we're selling opioids, we have to look at the entire
20 customer picture because even if, again, they are
21 not buying -- the example I used before, we don't
22 want oxycodone from you, we don't want any opioids,
23 we want to buy -- we want to only use lorazepam
24 because you have a good price on it but their top
25 six products are hydrocodone, hydromorphone,

1 oxycodone 30 and oxycodone 15, we are not going to
2 sell to them. So that's why we need the whole
3 picture. I'm just trying to explain our analysis of
4 how we looked at customers and how we make these
5 decisions.

6 Q. Okay. I'm looking at the release reasons in
7 Standard Operating Procedure 40. One of the reasons
8 that Anda's compliance people might release an order
9 that was flagged as an order of interest is because
10 your customer increased its supply to a new or
11 existing customer or patient.

12 A. That's a -- yes.

13 Q. Okay.

14 A. Yes.

15 Q. I'm just looking at these different factors
16 that Anda might use to release an order.

17 A. Correct.

☐ ☐

□ □ □

24 A. Yes.

25 Q. What does that mean?

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

4 Q. Okay. The next factor that Anda compliance

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

22 To my knowledge, Anda did not discount
23 controls.

24 Q. Right. So when these increased orders came
25 in from the customer due to pricing or promotion

1 changes, it wasn't your price break that led to the
2 increase in the order, it was the price break that
3 the manufacturer offered and you allowed the
4 increased order to go through to reflect their price
5 break?

6 A. Right.

7 MR. MATTHEWS: Objection.

8 A. And it -- when that happened -- and, again,
9 I would also -- I would also add that the
10 manufacturers we dealt with did their own due
11 diligence on us as well as certain customers,
12 especially there were some that they sold direct to
13 or sold direct through Anda as a -- as a supplier,
14 but they did their own due diligence as well as
15 ours. So there were really two levels of due
16 diligence on -- on a lot of those items.

17 Q. Okay. You were specifically aware of those
18 types of promotion -- pricing promotions as it
19 related to Anda's parent from time to time, were you
20 not?

21 MR. MATTHEWS: Objection.

22 A. Sometimes we were. It depended how it was
23 communicated, but if -- if we didn't -- let's put it
24 this way: If we weren't aware when the order came
25 in, we investigated and validated whether that was

1 the case.

2 Q. Okay. Looking at the sixth reason for

█ [REDACTED] [REDACTED]

█ [REDACTED]

5 And I'm reading from Brown-Anda --

6 Anda-Brown Deposition Exhibit 5, page ending in

7 1405.

8 A. Uh-huh.

9 Q. Can you describe what that means?

10 A. Again, I think we talked about this a little

11 bit this morning. It's a -- let's say it's a --

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

22 Q. Okay. The next category of reasons for

23 release of a -- of a held order is administration

24 release, customer call not required.

25 What does that mean?

1 A. Let's use -- let's use Walgreens as an
2 example, because that was always one. We would see
3 orders come through for -- a big -- the big one was
4 amphetamine, Adderall, because that was one of the
5 items that seemed like ABC was out of or we knew
6 there was a shortage in the industry, and we
7 happened to have Adderall, and we knew that their
8 primary didn't, so we knew we were going to -- we
9 knew ahead of time that, oh, yeah, they're going to
10 be out for a while, Walgreens will let us know when
11 it comes in, and we'll confirm it independently. We
12 didn't do -- we had a lot of business intelligence
13 that we, you know, we used in our -- in our company.

14 But we -- let's say we knew that ABC was out
15 and we knew these pharmacies were all going to come
16 to us. They hadn't ordered Adderall in a month or
17 two months. Every one of those was going to hit,
18 you know, because they hadn't ordered. It wasn't
19 patterned, it wasn't necessarily product they had
20 ordered in a while, but we knew it was coming, so we
21 released it because we had already done our due
22 diligence on these locations, we already knew that
23 they dispensed Adderall, we already knew the
24 quantities they dispensed it in, we set the limits
25 appropriately for those items in conjunction with

1 being a secondary for them, but we also knew that
2 they were out and, you know, we made whatever
3 adjustments and so on to make -- to make, so we
4 didn't have to call 500 stores to, oh, confirm that
5 this is what the case -- because we already knew it.

6 Q. Okay. Who was the primary wholesaler for --
7 for Walgreens, if you know?

8 A. Well, when --

9 Q. Or during the time that you were at Anda.

10 A. During the time they transitioned from
11 Cardinal, when they first started with us, to ABC.

12 Q. Okay. And the last reason listed under
13 Standard Operating Procedure 40 as a reason to
14 release a held order is release unchanged with
15 DEA/state authority concurrence.

16 What does that mean?

17 A. There were instances, and I'll give you one
18 specific one, Publix has a pharmacy in the Moffitt
19 Cancer Center in Tampa, and, frankly, the DEA has
20 told us, you know, you don't even need diligence,
21 whatever they order, that's what the -- that's fine,
22 don't -- don't worry about it. It hits your system,
23 don't worry, because that's what they're there for.
24 That's their -- that's their purpose. This is who
25 they're serving, are cancer patients, and those are

1 the -- they service the people who are already being
2 treated in that facility. So if they order 1,000
3 more than they normally do or what have you, just
4 don't worry about it.

5 Q. Let's go back to reviewing Anda-Brown
6 Deposition Exhibit 10, the Buzzeo assessment of
7 Anda's suspicious order monitoring program.

8 Looking at the third paragraph that is
9 contained there, it begins: No additional SOM model
10 calculations are performed since Anda uses a
11 threshold base system and the assigned threshold
12 will control limits per order.

13 Is that an accurate statement, or was it at
14 the time this document was generated in 2015?

15 A. Yes.

16 Q. So the only calculation that is used for
17 purposes of flagging an order as being an order of

■ [REDACTED]

■ [REDACTED]

20 A. That is my recollection.

21 Q. Okay. And then it continues: As noted
22 above, new customers may not order controlled
23 substances initially. Once approved for ordering
24 controlled substances, the customer may not order
25 more than 1,000 of any particular controlled

1 substance.

2 Again, consistent with your understanding in
3 2015?

4 A. Correct.

5 Q. And then it states a little further in the
6 paragraph: According to Executive Director Michael
7 Cochrane, the thresholds were initially set at 5,000
8 per order.

9 Do you have an understanding as the
10 thresholds at Anda once being 5,000 pills per order?

11 A. You know, I wasn't there. This was before I
12 got there. Sounds like maybe some conversation I
13 had heard, but I can't independently affirm
14 or confirm that that was the case.

15 Q. Let's go next to page 6, which ends in the
16 four digits 9147 on Anda-Brown Deposition
17 Exhibit 10, and specifically under review of orders,
18 the Buzzeo PDMA assessment states: Controlled
19 substances are pended either because they are in

20 [REDACTED]
21 times eight, or because they are in excess of the
22 [REDACTED]

23 Let me stop there. Where is the customer's
24 threshold recorded?

25 A. It's -- so I will -- I will correct that

1 sentence, because that second part is not accurate,
2 but to answer your question, they -- in TPS, every
3 customer and -- I'm trying to remember which 2.2 --
4 whatever the keys you press, but when a customer
5 is -- what'll happen, a customer is set up. Okay?
6 A customer is approved. So at the -- the default
7 limits are at 1,000. They're all set for 1,000,
8 except for oxycodone and methadone that are zero,
9 and there's a separate page for that. So when it
10 goes Y, you can go from that page to 2.2.4, put the
11 customer number in, and it'll show you exactly what
12 their thresholds are.

13 It's not published in Anda to anyone, and
14 certainly the customer can't see it, but they can
15 figure it out, because if they get rejected for an
16 order that's over, they're going to know what it is.

17 Q. Right.

18 A. But I would say -- but that's -- actually,
19 I do -- so there are, yes, you can go into any
20 customer -- in TPS, you can work up any customer and
21 you can see the limits by drug family that they are
22 allocated.

23 Q. Okay.

24 A. But I do want to just make one correction.
25 An order isn't pended in the electronic system

1 A. The system will reject it. The system will
2 reject the order --

3 Q. Okay.

4 A. -- because they -- they've exceeded their
5 limit.

6 Q. All right. So it's simply -- what happens
7 when the order has been rejected?

8 A. It never really gets -- it just -- the
9 customer cannot order that product, cannot place an
10 order.

11 Q. Unless they go through the remedy review
12 process in Standard Operating --

13 A. Correct.

14 Q. -- Procedure 45?

15 A. That's correct.

16 Q. Okay. And for each Anda customer there
17 is -- there are threshold limits contained in the
18 TPS system?

19 A. That is correct.

20 Q. Also in the O drive?

21 A. No.

22 MR. MATTHEWS: Is this a good time for a
23 break?

24 MR. NOVAK: Sure.

25 THE VIDEOGRAPHER: Off the record, 3:33 p.m.

1 (Recess from 3:33 p.m. until 3:47 p.m.)

2 THE VIDEOGRAPHER: On the record, 3:47 p.m.

3 BY MR. NOVAK:

4 Q. I think that's all for Deposition

5 Exhibit 10.

6 MR. NOVAK: Do you have the spreadsheet that
7 goes with Exhibit 14?

8 MS. ELLIS: Yes.

9 (Anda-Brown Exhibit 11 was marked for
10 identification.)

11 BY MR. NOVAK:

12 Q. We've had marked next Anda Deposition
13 Exhibit 11 --

14 MR. MATTHEWS: Anda-Brown.

15 Q. -- Anda-Brown -- thanks -- Deposition
16 Exhibit 11, which consists of an exchange of e-mail
17 that are between Robert Brown, Sabrina Solis, and
18 Tasha Campbell. The exhibit bears the Bates number
19 Anda_Opioids_MDL 601903 and 904, and then attached
20 to the e-mail was a spreadsheet bearing the Anda
21 Bates number MDL 601905.

22 A. Okay. I don't -- I don't have that, but I
23 guess you must have it. It's on there?

24 Q. The spreadsheet we will review
25 electronically.

1 A. Okay.

2 MR. MATTHEWS: Can I just put my objection
3 on the record to using a spreadsheet, an
4 electronic spreadsheet, with the witness, which
5 isn't being produced in hard copy form and as to
6 which there will be no record of a marked exhibit
7 in a deposition.

8 MR. NOVAK: Sure. I can provide to you -- I
9 mean, there's only so much paper I can lug to
10 Miami. If it assists in resolving your
11 objection, I can certainly e-mail to you
12 immediately the electronic version of the
13 spreadsheet.

14 MR. MATTHEWS: Sure.

15 MR. NOVAK: Okay.

16 MR. MATTHEWS: How many pages is it, do you
17 know?

18 MR. NOVAK: I don't. I just know at some
19 point our -- there was only so much we could do,
20 but --

21 MR. MATTHEWS: Let me just say, what I'll
22 try to do is get the pages you're using printed
23 so we can print and mark it.

24 MR. NOVAK: Okay. Why don't we go off the
25 record just for a second and we'll get the

1 logistics of this worked out.

2 THE VIDEOGRAPHER: Off the record, 3:51 p.m.

3 (Recess from 3:51 p.m. until 3:52 p.m.)

4 THE VIDEOGRAPHER: On the record, 3:52 p.m.

5 BY MR. NOVAK:

6 Q. Looking first at the e-mail exchange, the
7 e-mail at the bottom of Anda Deposition --
8 Anda-Brown Deposition Exhibit 11 bearing the Bates
9 number ending in 1903, is an e-mail from your
10 subordinate, Sabrina Solis, to you, which states as
11 follows: Robert, here is the first report that I
12 finished for auditing purposes as you requested.
13 Details.

14 And then there are a number of bullet points
15 underneath that.

16 Data includes all customers that have
17 purchased over the last year, not just the top 200,
18 national chains. Vets and regional chains are
19 excluded from the report. Only customers that are
20 flagged Y for controls today are included in the
21 report.

22 Now, let me stop there. If a customer is
23 flagged Y for controls, it means that they are
24 authorized -- or Anda is authorized to sell controls
25 to them, correct?

1 A. That is correct.

2 Q. Okay. And then the next bullet point says:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

9 I would wait to begin auditing these
10 customers until we are organized with other
11 initiatives so that the requests don't overlap.

12 Do you have an understandings as to what
13 Ms. Solis is conveying in this e-mail?

14 A. Again, this is the first time I've thought
15 about this in four years, so -- over four years, but
16 if I recall, and what I think we said was, you know
17 what, I know we've got data on customers, we've got
18 questionnaires, but it might not be current, and,
19 you know, we may have 10,000 customers and did some
20 purchase 500 pills and they're not CIIs, and I want
21 to get the data but I'm not going to be as
22 concerned, but I want to know if we have customers
23 purchasing a good amount of product and we don't
24 have updated information, we need to -- we need to
25 figure out who those are, prioritize it, and get

1 that information if we're going to continue to sell
2 those customers controls.

3 I want a list by -- especially those that
4 are some that are increasing and, you know, ones
5 that are -- have increased a percentage over one
6 year, and also, you know, by pills the last -- you
7 know, by total pills, percentage and then total
8 pills of all controls.

9 We did -- I will tell you that we did other
10 audits of oxycodone, methadone, hydromorphone,
11 even hydro -- and hydrocodone that were separate
12 from this that -- so we -- you know, those were the
13 top priority in terms if we didn't have -- you know,
14 if we didn't have current information by a certain
15 date, we would just send them a notice that we were
16 discontinuing all sales.

17 You know, and it had nothing to do with
18 whether they were, you know -- they had ordered
19 beyond or a limit increase. We just didn't want
20 to -- we were not going to take that chance, but
21 this was a more general, because that's why it
22 included all controls. We wanted to do -- wanted to
23 audit and make sure, you know, are we -- because at
24 that -- at that time we didn't have a mechanism --
25 we may now, and I think we actually looked at it

1 before I left -- a mechanism that would
2 automatically change -- you know, it would
3 automatically discontinue controlled sales if a
4 customer didn't turn their dispense data in, you
5 know, within a year. So we had to -- we had to do
6 this by hand.

7 Q. Okay. And just so I'm clear, the bullet
8 point that says only customers that are flagged Y
9 for controls today are included in the report, means
10 that these customers are ones for whom Anda would
11 allow sales of controlled substances?

12 A. That is correct.

13 Q. Okay. If we can switch to the spreadsheet.

14 Now, we'll start with the spreadsheet, and
15 what I want to make sure I'm clear about are a
16 couple of the columns. Column G is entitled Control
17 Flag 7/22/14. Do you see that?

18 A. Yes.

19 Q. Okay. And is that the flag that corresponds
20 with Ms. Solis' observation in her e-mail that only
21 customers that are flagged Y for controls today are
22 included in the report?

23 A. Yes.

24 Q. Okay. Now, if you look at line 5, there is
25 a customer named Mercy Family Pharmacy Regency and

1 it designates the type as Mercy Resource Management,
2 Inc. They are in Iowa.

3 If you look at Column E, it says: DD on
4 file. Yes or no. 7/22/14. For [REDACTED]
5 [REDACTED], the designation is no, DD is not
6 on file. Is that accurate?

7 A. That is accurate.

8 Q. Okay. So this customer would not have any
9 due diligence on file at Anda as of 7/22/14?

10 A. That's correct.

11 Q. But they do have a control flag, which
12 indicates that they are authorized to purchase
13 controls; is that correct?

14 A. Correct.

15 Q. How is it that a customer is authorized to
16 purchase controls if there's no due diligence on
17 file?

18 A. To tell you the truth -- I mean, I know --
19 without looking at this particular customer, I would
20 speculate, and I don't want to do that.

21 I would say, on the other hand, that there
22 were occasions once -- once in a great while where
23 I'd have -- we'd have a customer say, you know what,

24 [REDACTED]
25 [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 And on rare occasion we would do something
8 like that, but I don't know if that was what
9 happened with Mercy Resource Management. I'd really
10 have to look and see what they -- what that was
11 about.

12 Q. The second customer that appears to be in
13 the same position as Mercy Family is QOL meds at
14 line 8. Again, no due diligence on file, but they
15 are authorized to purchase controls.

16 Is that correct?

17 A. Yes.

18 Q. And, in fact, they had an increase in the
19 amount of controls that they purchased of

■ [REDACTED]

21 Is that accurate?

22 A. Yes.

23 Q. Okay. How is it, again, that a customer
24 with no due diligence on file is allowed to purchase
25 controls?

1 MR. MATTHEWS: Objection.

2 A. There is -- there is something specific
3 about this group, and I'm trying to recall what it
4 is, because they -- because, again, even in the --
5 even in the e-mail that I sent to Tasha, I said,
6 well, we want data. We do have information of
7 several stores. They are not priority.

8 And, again, I'm just recollecting. They
9 never bought Schedule II drugs. They did not buy
10 opioids. And I'm trying to remember who they --
11 they were -- they were a chain -- they were a small
12 group, and I'm trying to -- without -- I'm trying to
13 remember who they were that we felt, based on what
14 they were ordering, what they were buying, and the
15 nature of their business, it wasn't as high a
16 priority to collect data for them at that time. And
17 they had been ordering from Anda for ten years.

18 MR. NOVAK: Can we search in Column E for
19 all of the customers with the "no" on their due
20 diligence file?

21 You can scroll all the way down.

22 BY MR. NOVAK:

23 Q. Now, as we've looked solely at the customers
24 who have no due diligence record on file, that have
25 nonetheless been authorized to purchase control, it

1 appears that there are 322 customers in that
2 category -- or, I'm sorry, 321, because I think the
3 top row isn't populated.

4 Would all of these be the same situation
5 where, as you described for the first two, that they
6 requested some amount of controls and Anda
7 authorized it even without the due diligence on
8 file?

9 A. Or they had been buying the same items for a
10 long time, not Schedule IIs, not opioids, and we had
11 a, you know, pretty good buying -- we had a very
12 good buying record of those.

13 So, I mean, I do see a lot of QOL, I see
14 Genoa Healthcare. These were not independent
15 pharmacies by any means. Again, I'd have to go back
16 through each one and really make that determination,
17 but from my recollection, that was the vast majority
18 of those. Like I say, QOL, I'm looking at Genoa
19 Health, and those would be the ones that -- as I
20 said, they were not buying any Schedule IIs and not
21 buying any opioids.

22 They were buying a limited number of
23 products, and they had been buying for a long time.
24 But that's what I wanted to see -- I wanted to get
25 this right away.

1 Q. Now --

2 MR. MATTHEWS: Can I interrupt you for a
3 second?

4 MR. NOVAK: Yes.

5 MR. MATTHEWS: Would you mind e-mailing me
6 the spreadsheet?

7 MR. NOVAK: Yeah.

8 MR. MATTHEWS: Maybe I need to take a closer
9 look at it before the end of the day.

10 MR. NOVAK: Okay.

11 MR. MATTHEWS: Can we do this off the
12 record?

13 MR. NOVAK: Sure.

14 THE VIDEOGRAPHER: Off the record, 4:05 p.m.

15 (Recess from 4:05 p.m. until 4:07 p.m.)

16 THE VIDEOGRAPHER: On the record, 4:07 p.m.

17 BY MR. NOVAK:

18 Q. If we can go back to Anda-Brown Deposition
19 Exhibit 10 for a moment.

20 A. Uh-huh.

21 Q. And specifically the page ending with four
22 Bates number digits 9148.

23 A. Uh-huh.

24 Q. The top paragraph under the bullet points
25 starts off by stating: Consultants observed real

1 electronic files that were used to document due
2 diligence activity for new accounts and other types
3 of order adjustments.

4 Do I take that to mean that consultants from
5 Buzzeeo PDMA came in to Anda and actually observed
6 real electronic files on people's screens?

7 A. Yes.

8 Q. Okay. Now, I'm going to take a huge leap
9 and guess that Anda's not going to agree to let me
10 do that.

11 And -- and what I would like to know is if
12 there were -- how would one go about obtaining the
13 electronic files that record the due diligence for
14 particular customers?

15 A. Well, again, in this case, because I -- and
16 I have personal knowledge because I did it. I would
17 go into my screen. I would go into my O drive. I
18 would pull up, and I would show them examples of
19 what we had with the various customer files.

20 That's -- in terms of how they get
21 transmitted, I have no idea how it gets -- how that
22 file would get transmitted somewhere else. I don't
23 know if it has to be copied. I don't know if it can
24 be down -- I have no idea how that gets done.

25 I do know how it gets in there. I know it

1 gets scanned and downloaded into that file -- into a
2 particular file. When a questionnaire comes in, it
3 goes into that particular file for that customer.

4 Q. And for the -- for the purchase history of
5 controlled Schedule IIs, is that recorded in the O
6 drive or the TPS?

7 A. TPS.

8 Q. Okay.

9 A. And, again, not to belabor it, but it's
10 several different. It shows controls. It shows
11 noncontrols. Then I -- it goes percentage of
12 controls, percentage -- then I can go in and say let
13 me see the number of hydrocodone purchases, and
14 it'll go down and I can look as long as it's been.
15 And they'll have it by -- by strength. You know,
16 one month it's oxy, hydrocodone 5, one month 10/325,
17 et cetera, so I can see it that way and then play --
18 you know, play with that as well, so depending on
19 what I want to see out of that.

20 Q. And that would lay out the whole order
21 history as well?

22 A. Yes.

23 Q. Okay.

24 A. By -- in that case, it's by product, but I
25 could also go -- and I didn't do this too often,

1 but -- well, with specific orders, I did.

2 I'd go in and I'd see what the order itself
3 was on, you know, November 27th, 2012, what they
4 ordered on that day. But then there were -- I could
5 also -- most of the time, I was doing it by history,
6 so I was doing it by product and by controls,
7 noncontrols.

8 Q. Okay. For the 321 accounts that we just
9 observed on the spreadsheet that was part of
10 Anda-Brown Deposition Exhibit 11, identified with
11 the Bates number 601905, would it be possible to go
12 back and verify whether controlled Schedule II
13 products were purchased by those 321 accounts in
14 2014?

15 A. I assume it would -- I mean, it would be
16 possible by the system, and you could -- you could
17 do it -- well, you can look by purchases, and then
18 you could also look in TPS and see what their
19 limits -- what their limits were, because if they
20 were zeroed out, then they wouldn't have
21 purchased -- you know, could do it both ways.

22 Q. Okay. The limits that are recorded for each
23 customer, are they recorded with a history of when
24 they are adjusted?

25 A. The adjustments are recorded in the -- in

1 the customer notes.

2 Q. Okay. So if the thresholds, for example,
3 are adjusted upwards or downwards, that's contained
4 in the customer notes?

5 A. Correct.

6 Q. And when a threshold is increased, for how
7 long a period of time is the increased threshold in
8 effect?

9 A. It's in effect from that point forward.

10 Q. Okay.

11 A. Again, you know, reminding that we do get --
12 I know there are exceptions, but we do get due -- we
13 do get dispense data. The only way we increase it
14 is with dispense data. And from that point forward,
15 we get dispense data on a -- on a yearly basis. So
16 it's kind of verified, you know, is that still
17 necessary.

18 Q. Okay.

19 A. And I would say, too, that there were times
20 when we would look at a customer's purchase history
21 with us, and maybe they're -- they have 1,000 limit
22 or 1,500 limit on a family, and they were only
23 purchasing 300 a month for 10 months or so. And
24 we'd say to the rep, you know what, we're -- we're
25 reducing this limit. They're not purchasing this

1 from us, so why are we -- why are we keeping them at
2 that limit?

3 And we would reduce it, but we would also
4 let the sales rep know so it wouldn't come as a
5 surprise when they -- plus if the customer did try
6 to order the 1,000, well, you weren't -- you know,
7 you'd let them know. You weren't purchasing so
8 you're -- you know, what have you. There would be
9 some communication, it wouldn't come as a shock, and
10 the customer wouldn't get upset with just the idea
11 that, you know, you don't need us for that so why
12 would we give you that opportunity.

13 And that did happen.

14 Q. And the adjustment of limits for all
15 customers is itself a separate data field that -- or
16 it -- or it's in customer notes?

17 A. Well, the adjustment itself is in the
18 limits -- the individual customer limits, the
19 individual customer family limits. You can actually
20 make the adjustment. But then it's noted in the
21 notes as to when and why.

22 Q. Okay. So a history of all of Anda's
23 customers could be extracted just from the customer
24 notes field for each customer of the company?

25 A. If there -- I mean, if there are any notes.

1 Let's say, for example, you have a customer that --
2 who was, you know, approved in 2014 and nothing has
3 happened. I mean, they got approved, and it will
4 say approved. And they've never adjusted their
5 limits, they've never asked for new products,
6 they've never done anything else.

7 It'll just -- you won't see many notes in
8 there. And all it will really change is either
9 the -- is the date -- so let's just use 2014 as the
10 example. You will see new dispense data when the
11 last date -- the most recent date it was submitted
12 and, you know, the most recent date that a customer
13 questionnaire was submitted.

14 But that's not -- that's not in the notes
15 section. That's on the first page of the customer
16 information section.

17 Q. Okay. And that's also reflected in the due
18 diligence field?

19 A. TPS, yes.

20 Q. Okay. Does the -- is the TPS -- is there a
21 TPS field that actually has a Y or N in the due
22 diligence?

23 A. On the first -- in the first -- when you --
24 when you go to TPS and you type in a customer
25 number, the first page that pops up has the name,

1 the address, the DEA number, the state license
2 number. If it's -- if the license expired, it will
3 be in red. Otherwise, current.

4 And I think it -- I think it has -- if I
5 remember, it does have an expiration date. And then
6 it will say DEA license, and there was one item in
7 the SOP that talked about see what schedules they're
8 approved for, because there are some DEA licenses
9 that don't -- they don't have -- the customer hasn't
10 been approved for Schedule II, for example, or II or
11 3N or whatever it happens to be.

12 So it will say all the schedules that it's
13 approved for, and then it will say, you know,
14 approved for controls, Y; customer questionnaire on
15 file, it will give Y give the date; and customer due
16 diligence and, it will give the date.

17 Yeah, you can find that all on the first
18 page.

19 Q. Okay.

20 (Anda-Brown Exhibit 12 was marked for
21 identification.)

22 MR. NOVAK: It's a two-parter.

23 MR. MATTHEWS: Are these two separate?

24 What's going on here?

25 MR. NOVAK: There's the e-mail and the

1 attachment -- actually, a couple attachments.

2 MR. MATTHEWS: All of which collectively is
3 going to be Exhibit --

4 THE COURT REPORTER: 12.

5 MR. MATTHEWS: Thank you.

6 BY MR. NOVAK:

7 Q. We have had marked as Anda Deposition --
8 Anda-Brown Deposition Exhibit 12 an e-mail sent from
9 Michael Cochrane to Valerie Mitchell, who has a
10 usdoj.gov address, and then with a CC to Robert
11 Brown.

12 And then a number of documents are attached
13 to the e-mail: an SOP 28 form, an SOP 40 form, and
14 then a reference to controlled substance sales as
15 broken down at the -- the Westin, Florida; Grove
16 Port, Ohio; and Olive Branch distribution centers of
17 Anda.

18 Mr. Brown, I'll -- oh, and I should also
19 reference that the Bates number for the agreement --
20 for the document is Anda_Opioids_MDL 84481.

21 MR. MATTHEWS: Can I ask a question for
22 clarification?

23 MR. NOVAK: Yes.

24 MR. MATTHEWS: The attachments don't have
25 Bates numbers on them, that I see. Is -- were --

1 is it your position that the attachments were
2 attached to the e-mail?

3 MR. NOVAK: Yes, and they appear to all have
4 been printed in native format.

5 We can go off the record for a second on
6 that.

7 THE VIDEOGRAPHER: Off the record, 4:21 p.m.

8 (Recess from 4:21 p.m. until 4:23 p.m.)

9 THE VIDEOGRAPHER: On the record, 4:23 p.m.

10 BY MR. NOVAK:

11 Q. I want to direct your attention, Mr. Brown,
12 first, to the e-mail. It purports to be an e-mail
13 from Michael Cochrane, on which you are cc'd, in
14 addition to a number of other individuals; and it's
15 addressed by Mr. Cochrane to Ms. Mitchell.

16 Looking down at the second paragraph, midway
17 through it reads, quote: "Going forward we will not
18 commingle our customers cut off or refused with any
19 suspicious orders. Rather than an e-mail containing
20 all the information from Emily Schultz, you'll
21 receive a separate e-mail from Robert Brown, as well
22 as a phone call, in the event there is a suspicious
23 order to report. We will include all the specifics
24 regarding the order in our e-mail transmission as
25 well as a verbal via phone call to you or a

1 designee."

2 You saw that portion of the e-mail?

3 A. Yes.

4 Q. Okay. Do you recall back in 2014 when
5 Mr. Cochrane designated you as the one to convey
6 separately any suspicious order reports to the
7 Department of Justice or DEA officials?

8 A. Yes, but I do want to clarify something on
9 that.

10 Q. Yes.

11 A. Because before I started, Anda had begun --
12 had had a practice for -- that Emily Schultz kept a
13 report that if there was -- if there were customers
14 that were denied, customers that were cut off, you
15 know, an order, and control customers who were no
16 longer, or customers -- and there were some
17 customers that were reinstated for controls if they
18 had significant changes in their dispense data or
19 what have you, or other information, and suspicious
20 orders, it was contained on a spreadsheet that was a
21 rolling spreadsheet that Emily would send to local
22 and -- field offices and DEA in Washington listing
23 all these, and it was a way of, in our thought, you
24 know, notifying the DEA that we've come across some
25 pharmacies or customers that we're not comfortable

1 with and you might want to take a look at them.

2 In our meeting of, I believe, it doesn't say
3 on here, but it was early September of 2014, we had
4 a meeting in Columbus with Valerie Mitchell and
5 two -- actually, if I remember correctly, Brittany
6 Freeman from DEA was not present. She was by phone.
7 Duane Stickles was there. Brice Burchard, who was
8 from New Orleans, but he -- Mississippi, and it was
9 Alberto Esteves, Michael Cochrane. Alberto was our
10 warehouse director in Ohio, and Al Paonessa, who was
11 our President, and we met with them regarding the
12 Ohio -- status of the Ohio inspection, and one of
13 the things that came out of that, we explained what
14 we do in our procedures, and we prepared a pretty,
15 you know, extensive description of the systems, some
16 -- a lot of which we've gone over here, showed them
17 actual screens of what we looked at and information
18 and how we pulled up the 2.2.4.1. We actually had
19 screen shots.

20 So we talked about this report that we were
21 sending, and Valerie Mitchell said, you know, just
22 having this list of customers doesn't really help
23 us, and if you're reporting suspicious orders, you
24 need to kind of flag it more specifically than just,
25 you know, put it on another column of the

1 spreadsheet, so what we'd like you to do is, if you
2 deny a customer, tell us why. You don't have to --
3 it doesn't have to be a book, but indicate this is
4 why you're denied; or you cut them off, what
5 changed, why; if you're reinstated, why. If it's
6 shorter, we want to see that -- when you transmit
7 the e-mail to our offices, we want that highlighted
8 if they -- there's a suspicious order, and, you
9 know, if you cut a customer off, was it by a -- was
10 it for an order, a suspicious, or was it something
11 else.

12 So that then revised -- I just want to give
13 this context. That's -- that revised -- it wasn't a
14 separate form, it was -- it was an enhancement of
15 the current form and then an e-mail cover that
16 specifically identified if any -- that, you know,
17 any suspicious orders that were in that report.

18 Q. Okay. Let me follow up on that for a
19 moment. What is the difference between Anda cutting
20 off a customer who submits an order because they're
21 not comfortable for some reason with the controlled
22 substance that the customer has ordered, on the one
23 hand, and determining that it's a suspicious order
24 on the other?

25 MR. MATTHEWS: Objection.

1 A. We were not -- in 99 percent of the cases,
2 we were not cutting off the customer because of a
3 specific order. We were cutting off a customer
4 because over -- I'll give a couple of reasons could
5 happen. Customer's control purchase percentage over
6 a three-month period went from 10 percent to 30
7 percent. Okay? That's not any one order. That's a
8 pattern. That's -- and it's controls. It's not by
9 family. It's a pattern of overall control sales.

10 We're not -- we're not your control
11 supply -- we're not your controlled substance
12 supplier. We are a secondary for all products
13 unless we have a specific arrangement with you, and
14 in most cases, retail pharmacies, we didn't have
15 that kind of specific arrangement. So that was one
16 reason.

17 The second reason would be let's say we
18 approved a customer, we looked at their dispense
19 data, and oxycodone 30 was their 80th product and
20 they were averaging 50 pills a script.

21 Now we get updated dispense data and
22 oxycodone 30 is their third product and it's at 200
23 pills a script. They have -- chances are they're
24 not buying it from us, but that's a significant
25 change that we're not comfortable with.

1 Or a customer -- a customer gives us some
2 additional information about a -- or in a
3 questionnaire, you know, they -- or an updated
4 questionnaire, they give us their five physicians,
5 and two of them have discipline action and they
6 don't know that they have, and you call -- I did
7 this myself. I'd call the customer. Do you know
8 that, you know, two of your physicians have
9 discipline actions? Oh, no, I don't know. Which
10 ones?

11 They'd be cut off, because to us that meant
12 that they were not able to fulfill their
13 corresponding responsibility, which the DEA hammered
14 every time either we met with them or we went to a
15 DEA seminar. Corresponding responsibility. If they
16 weren't carrying that out, then we would say we
17 can't do business with you anymore and we'd report
18 that to DEA.

19 But it really -- it was very rarely, almost
20 none, based on an individual order. It was based on
21 something changed, if we cut them off. Now, of
22 course, the denial is the first part of it, we never
23 sold them anything, and that was the reason, so --
24 but that's what we would do, and that's what --
25 that's what's referenced here. I just wanted to

1 clarify.

2 (Anda-Brown Exhibit 13 was marked for
3 identification.)

4 BY MR. NOVAK:

5 Q. We've had marked Anda-Brown Deposition
6 Exhibit 13, the front page of which is -- or the
7 front three pages of which are an exchange of
8 e-mails that purport to be from Robert Brown to
9 various individuals within Anda, as well as
10 exchanged with a BWilliamson@US.IMShealth.com, and
11 then attached to that are various documents that
12 were included as an attachment to the e-mail.

13 The document bears Anda's Bates number
14 MDL143508 through 143559.

15 Mr. Brown, in interacting with Buzzeo PDMA,
16 was Mr. Williamson one of the individuals with whom
17 you interacted?

18 A. Yes.

19 Q. Your primary contact there?

20 A. No, he was not the primary, but he was -- he
21 was the -- the DEA compliance person. He was a
22 retired DEA agent, and so when it came to not -- not
23 statistical algorithms or things of that nature,
24 but, basically, you know, compliance, he was the
25 contact.

1 Q. Okay. Towards the latter portion of your
2 employment at Anda, were you working with Buzzeo
3 PDMA on developing a new suspicious order monitoring
4 program?

5 A. We were not -- it was not a new program.
6 What it was was enhancements to our -- what we were
7 doing, and it primarily focused on some different
8 statistical algorithms that they recommended over, I
9 think -- I think we had a rolling 30-day in ours and
10 they recommended maybe a longer rolling period
11 because of, as they indicated, you know, being a
12 secondary supplier, it's really hard to get a true
13 and accurate assessment of the -- of the validity of
14 an order just with 30 days.

15 So they made some changes in there and they
16 designed some screens that made it a little -- maybe
17 a little less cumbersome to be able to access more
18 information quickly rather than flipping screen to
19 screen to screen. So they were working on that.

20 But one of the things that -- in the
21 engagement with Buzzeo was if they were going to
22 put -- if they were going to do the statistical
23 algorithm and they were going to, you know, make
24 some enhancements to the system, we wanted to make
25 sure that the SOPs, which, you know, let's say

1 SOP -- at least SOP 40 was enhanced to accurately
2 reflect what this system was -- and types of orders
3 it was flagging and the algorithms that it was using
4 so that it was consistent.

5 And we did -- since we weren't -- you know,
6 they were the experts in their system, not that
7 we -- we needed -- we needed to have something in
8 writing that, one, we would understand and we could
9 explain, and two, the DEA comes in, we're not going
10 to say, oh, that's Buzzeo. We weren't -- now, we
11 called some of their customers, and they said -- and
12 the smaller customers and their customers said, ah,
13 we just tell the DEA that we're using the Buzzeo
14 system and that's okay, they're fine.

15 Well, we definitely didn't feel comfortable
16 with that, so we wanted -- we wanted some additional
17 documentation that actually reflected what their
18 system was flagging or what -- or what they were
19 looking at, the factors, and so on.

20 Q. Back when we were looking at Anda-Brown
21 Deposition Exhibit 10, the Buzzeo suspicious order
22 monitoring assessment of Anda, it made some
23 recommendations to migrate towards these statistical
24 algorithms as a basis of flagging orders to
25 determine whether they were suspicious.

1 A. Uh-huh.

2 Q. Was this part of an attempt to implement
3 some of those recommendations?

4 MR. MATTHEWS: Objection.

5 A. This -- we were looking to, again,
6 determine, you know, certain enhancements that we
7 wanted to make to our -- to our system, yes. And,
8 again, as I mentioned, with a different -- maybe,
9 you know, an enhanced statistical algorithm, and, as
10 I mentioned, you know, maybe taking into account
11 more -- a longer view of the customer's purchasing
12 history, again, from a secondary supplier
13 standpoint.

14 MR. NOVAK: I want to go back to that last
15 question and break it up to address your
16 objection.

17 BY MR. NOVAK:

18 Q. Let me start with a simple question. In
19 Anda-Brown Deposition Exhibit 10, Buzzeo made
20 certain recommendations that Anda should migrate
21 towards a statistical algorithm as a method of
22 identifying potentially suspicious orders, correct?

23 A. Or flagging orders of interest that needed
24 more review, yes.

25 Q. Okay. And was the effort that is reflected

1 in Anda-Brown Deposition Exhibit 13 reflective of
2 attempting to implement some of those
3 recommendations?

4 MR. MATTHEWS: Objection.

5 A. There was a two-part process, and I don't
6 have the statement of work in front of me, but there
7 were two different -- because, if I recall, and I'm
8 recalling this, you know, from memory, that there
9 were -- there were different options for the
10 statement of work that we could -- we could engage
11 Buzzco, and one portion of it was to develop a
12 statistics-based -- statistical algorithm-based
13 order monitoring, electronic order monitoring
14 system, that would enhance what we were doing.

15 The second part of it -- and these were two
16 different payments made.

17 A. The second part of it was for them to draft
18 SOPs that reflected the -- that -- that system. And
19 we -- we chose that as well because they knew their
20 system better than we would.

21 Us trying to write that SOP, we might
22 miss -- miss some things that, you know, would then
23 not allow us, when we did receive, you know, DEA
24 inspection and try to explain the system, we
25 might -- might say something that's incomplete.

1 So we -- we paid them to draft an SO -- an
2 SOP or various SOPs that looked at -- that reflected
3 that electronic system with the -- with other --
4 with the statistical algorithms.

5 Q. Okay.

6 A. So I get -- I just didn't think it was as
7 simple an answer as "yes" or "no."

8 Q. All right. I'd like to turn to one of the
9 attachments in Anda-Brown Deposition Exhibit 13 that
10 begins at the Bates numbers ending with the four
11 digits 3511. And it appears to be a four-page
12 letter that is authored by a Mr. Joseph Rannazzisi,
13 the deputy assistant administrator at the office of
14 diversion control.

15 Are you familiar with this letter?

16 A. It was sent to me, so I would -- you know, I
17 would gather at some point I have reviewed it.
18 Again, it was -- 2006 was the date. I certainly
19 didn't review it contemporaneously when -- when --
20 as to when it was sent out, but, yes, I would have.

21 And it's been a long time, but I would -- I
22 would think that I have -- I did review this at some
23 point, yes.

24 Q. Were you at Valley Drug in 2006 -- I'm
25 sorry, at -- at --

1 A. Harvard?

2 Q. -- Harvard Drug?

3 A. I was at Harvard, yes.

4 Q. Okay. Do you recall receiving this letter
5 while at Harvard Drug?

6 MS. HERRERA: Objection.

7 A. I don't recall.

8 Q. Do you have an understanding as to whether
9 this correspondence was sent to all DEA registrants
10 for controlled substance sales?

11 MR. MATTHEWS: Objection.

12 MS. HERRERA: Objection.

13 A. I -- I don't really have an understanding
14 other than the first sentence of the letter, but I
15 can't validate whether that actually took place or
16 didn't.

17 Q. Okay. At the third page of the letter
18 ending in Bates range number 3513, there are a
19 number of different circumstances -- or a number of
20 different numbered sentences that are identified
21 under the heading "Circumstances" that might be
22 indicative of diversion.

23 Do you see that reference?

24 A. Yes, I do.

25 Q. Okay. Are these circumstances something

1 that you reviewed as part of the performance of your
2 responsibilities at Anda?

3 MR. MATTHEWS: Objection.

4 A. Let me phrase it this way.

5 These were items that, when we looked at
6 dispense data and other customer information, these
7 were certainly items that were part of our --
8 among -- among many other things, were part of our
9 analysis. I'm certainly not going to say that
10 because of this letter we did it.

11 I mean this -- and at Anda, I mean, frankly,
12 a lot of that was already in place. But certainly
13 this does -- this paragraph does include certain
14 factors and -- and conditions that -- and so on that
15 we would look at through -- in a customer's due
16 diligence information that, you know, would
17 certainly, you know, stand out to us and we would
18 pay particular attention to, among others.

19 Q. So your due diligence program was designed
20 to identify the types of certain circumstances that
21 are contained at page 3 of this Rannazzisi letter?

22 MR. MATTHEWS: Objection.

23 A. Well, again, our -- the -- the
24 information -- the way we reviewed information that
25 was provided by our customers certainly included

1 these items, but it was -- it was certainly -- that
2 was only -- these were only a certain portion of
3 what we really looked for. We looked for a lot of
4 different things relating to controls.

5 So, you know, I mean -- and, again, that was
6 one of the reasons, you know, why it's so important
7 for us, and I think for -- for us to get dispense
8 because, you know, how would we know what they're
9 ordering from multiple distributors unless we look
10 at dispense data. You don't know what they're
11 buying from anybody else.

12 So, again, this was -- these were things
13 that we looked at, but it wasn't due to this letter
14 and it certainly isn't the -- these aren't -- this
15 is not anywhere near the -- the only factors that we
16 reviewed. These were included in our regular due
17 diligence and analysis.

18 Q. Okay. Running through the top of the page,
19 there are four circumstances that are identified
20 there.

21 The first is ordering excessive quantities
22 of a limited variety of controlled substances, e.g.,
23 ordering only phentermine, hydrocodone, and
24 alprazolam while ordering few, if any, other drugs.

25 Would you agree that that characterizes a

1 circumstance that might be indicative of diversion?

2 A. It depends.

3 I mean, in general, it would be something we
4 would look very closely at.

5 On the other hand, I can think of
6 circumstances where maybe, because of the nature of
7 the customer and the people that they're servicing,
8 it may be -- there may be an explanation. I don't
9 know.

10 But we would certainly -- the burden of
11 proof, so to speak, would certainly be on that
12 customer to be very clear as to why, and -- and it
13 would be -- I would say it would be very, very hard
14 to justify selling controls to a -- to a customer
15 that would be doing that.

16 Q. Okay.

17 A. But I didn't want to foreclose that there
18 isn't the remote possibility that there could be a
19 business practice out there where that might make
20 sense, but, again, it's got to be very, very, very
21 clear.

22 Q. So -- so that is a circumstance that is
23 suspicious, but there may be circumstances that
24 would, upon additional investigation, dispel the
25 suspicious?

1 MR. MATTHEWS: Objection.

2 A. It -- it -- let's put -- without -- without
3 significant information to the contrary, we would --
4 under those circumstances, we would -- if we saw
5 either dispense data to that nature, chances are not
6 very likely we would be opening a customer.

7 Q. It would be -- it would be tough to dispel
8 the suspicion in that case?

9 MR. MATTHEWS: Objection.

10 A. It would be difficult to justify the
11 ordering pattern.

12 Q. Okay. How about the second one, ordering a
13 limited variety of controlled substances in
14 quantities disproportionate to the quantity of
15 noncontrolled medications ordered?

16 A. Again, it would definitely be a concern.
17 There might be specialty practices or -- or -- or a
18 specialty type of pharmacy but over -- over time, we
19 did see some pharmacies that really catered to
20 specific medical conditions, specific medical
21 practices, again, maybe closed door, and maybe there
22 was a justification for that.

23 But, again, in -- in order to, you know,
24 make us comfortable, there would have to be
25 significant information provided.

1 Q. Okay. The third one identified is -- as a
2 circumstance indicative of diversion is ordering
3 excessive quantities of a limited variety of
4 controlled substances in combination with excessive
5 quantities of lifestyle drugs.

6 First of all, do you have an understanding
7 as to what lifestyle drugs are?

8 A. I really don't. I'm not sure myself what
9 that refers to. I'm sure it's an easy explanation,
10 but I don't -- I never use that term so I'm not
11 really sure what that means.

12 Q. Okay. Well then I'm going to skip that one
13 and go on to the fourth circumstance that is
14 identified in this letter as something that might be
15 indicative of diversion.

16 And it reads: Ordering the same controlled
17 substance from multiple distributors.

18 A. It -- again, it certainly is -- it -- it --
19 it certainly is indicative -- or it would require
20 further investigation.

21 On the other hand, at this point in time --
22 and I guess we will shortly, or somewhat shortly,
23 based on the legislation that was signed,
24 distributors will be able to get information from
25 ARCOS that will not name the suppliers but at least

1 will say they're getting alprazolam from the -- from
2 four sources.

3 Right now, there is really no way of knowing
4 that unless the customer volunteers that
5 information.

6 In other words, go back to our
7 questionnaire. And we ask: Who are your suppliers?
8 Who are your other -- you know, let's say they'll
9 say McKesson and ParMed. Let's just use two as an
10 example. And Anda, okay. So you've got three. But
11 unless -- and they give us dispense data.

12 But unless we were to say, well, do you
13 order -- how much do you order from Cardinal or ABC
14 and how much do you order from ParMed of
15 hydrocodone, it's really not easy to know that. Is
16 it hydrocodone 5 or hydrocodone 10? You order --
17 you know, hydrocodone 10, you have to go through
18 every product and really ask that question.

19 And it would be -- I think it would be very
20 difficult to obtain that information.

21 So, really, you have to almost, you know,
22 make some assumptions based on the information you
23 get that, yeah, they're ordering with these three
24 and how much do they really want? And that's if
25 you're comfortable with the dispense data, if you're

1 comfortable with the practice, if you're comfortable
2 with the doctors, if you're comfortable with the
3 patient condition, if you're comfortable with their
4 procedures.

5 Then you might say, well, you know, we're
6 not their primary and they have another secondary so
7 we're probably not going to be interested in
8 supplying them with much but -- of that product.

9 But to break it down like this, I think
10 is -- in the real world is difficult to really get
11 that information.

12 Q. Have you ever requested of a potential
13 opioid customer, as part of your due diligence,
14 information on the quantities of opioids they've
15 purchase from other distributors?

16 A. Well, first of all, we know they're
17 purchasing from other distributors because when
18 they -- when they submit their data to apply and
19 they're dispensing 15 -- you know whatever number
20 they're dispensing -- we know they're getting it
21 from -- we knew they were getting it from others,
22 and we assume they are getting it from the -- the
23 suppliers that they've listed on their
24 questionnaire. So we know that.

25 You know, do we -- do we ask them, well, how

1 much are you getting from Cardinal versus how much
2 are you getting from, you know, ParMed, we probably
3 don't do that, no. But we know -- we know how much
4 they're getting total, and we know who their
5 supplier -- their other suppliers are.

6 Q. Okay. Has Anda ever discussed internally
7 the prospect of going to other data vendors to
8 obtain more detailed information about where their
9 customers are getting opioid prescriptions?

10 MR. MATTHEWS: Objection.

11 A. I think -- I -- to my knowledge -- to my
12 knowledge, I don't know of any source that would
13 provide that information with that specificity.

14 Q. Okay. Has Anda ever sought information
15 about the quantities of opioid products sold to its
16 customers from its parent companies, whether it be
17 Watson or Actavis or Teva or -- I'm missing the
18 fourth one.

19 A. Well, first of all, except in limited cases,
20 the manufacturer is not selling the product directly
21 to the pharmacy. They're selling it through other
22 distributors.

23 And one thing that all of these companies
24 maintained -- and I think rightfully so -- was that
25 the integrity of the industry -- I mean, why it

1 would be -- it would compromise, really, the
2 integrity of the closed system of distribution and
3 also, you know, the information to circumvent,
4 because they happened to open -- because they
5 happened to own one distributor, and they've got
6 seven others that they're supplying and to provide
7 information about those seven others.

8 They would not do it. It would hurt their
9 place in the industry. They would lose some of
10 those customers. And I think it would be -- you
11 know, I don't think it's realistic that -- that we
12 wouldn't even put them on the spot to answer because
13 their answer would be no.

14 And let me -- let me be a little more -- let
15 me give a little more -- elaborate on that just a
16 bit.

17 When it came to auditing or, you know,
18 auditing their customers, which are distributors, in
19 the time I was there, the parent companies, they
20 would treat Anda just like they treated anyone else.
21 They would want our SOPs. They'd want to -- they'd
22 want to understand our systems. They'd want to
23 understand how we -- how we vet customers. They'd
24 want to look at the information we maintained, and
25 they would treat us just like anyone else.

1 In fact, Tom Napoli, who was included in
2 that -- one of the e-mails was the person who had
3 come, either by phone or by letter or even visit,
4 and say, okay, I need -- I need to understand what
5 you're doing.

6 So we were treated no differently when it
7 came to compliance issues.

8 Q. Can I just read that answer for a second?

9 Set aside Anda receiving information from
10 its parent about sales that the parent may make
11 through other distributors to particular customers.
12 Does Anda ever provide information about sales to
13 customers to other manufacturers?

14 A. Usually not specific customers; however,
15 there are times, just like -- just like we have --
16 we have an electronic order system that will -- you
17 know, will flag certain orders of interest that
18 require different -- require additional integrity,
19 we've had cases where manufacturers will call us and
20 say, well, we got this order of hydrocodone that was
21 larger than you've ordered in the past. Why? And
22 we would have to provide a written explanation.

23 And in many cases, we would say, yes,
24 Walgreens primary was out of this product, and we
25 ordered -- we ordered more for you -- from you

1 because we needed to supply them with their -- with
2 those items.

3 Q. In your view, is it inappropriate to provide
4 that type of information to manufacturers?

5 MR. MATTHEWS: Objection.

6 A. Just like -- just like we'll ask a customer,
7 well, why did you -- why are -- why do you want --
8 why did you all of sudden order a particular product
9 that you hadn't ordered before and we're going to
10 want the name of the doctor who prescribed it or the
11 clinic that's ordering, I think they have a right.
12 And, you know, if they're doing their due diligence,
13 I don't -- I don't think that's -- you know, it's
14 the same thing that we do.

15 I mean, just -- I mean, I used to tell our
16 customers when they were complaining about
17 questionnaires, I said we fill out the same
18 questionnaire for our suppliers every year. And
19 sometimes they'll even come onsite, they'll do
20 whatever they -- but whatever they decide to do,
21 we're -- if we want to continue to buy product from
22 them, we have to do the same thing.

23 So don't -- don't complain. This is the
24 nature of the industry today.

25 Q. So in those types of questionnaires, Anda

1 will provide information with respect to its
2 customers to different manufacturers?

3 A. Well --

4 MR. MATTHEWS: Objection.

5 A. Well, those questionnaires don't ask for
6 specific customers. The questionnaires ask for, in
7 many cases, what percentage of your, let's say,
8 controlled substance are pharmacies, what percentage
9 are closed door, what percentage are hospitals, what
10 percentage are independent pharmacies, which
11 percentage -- they don't ask the names of the
12 customers. Those questionnaires don't ask, and we
13 don't ask.

14 But if, again, here's -- in a case where
15 it's a specific order that they are investigating
16 and determining if it's valid, yeah, I mean, that --
17 that would be -- and to be -- to be frank, I don't
18 think there's anybody in the industry that doesn't
19 know that Anda is a secondary supplier for
20 Walgreens, so it's -- there's no proprietary
21 information there.

22 Q. Do any of Anda's -- strike that.

23 MR. NOVAK: We can take a quick break.

24 THE VIDEOGRAPHER: Off the record, 5:01 p.m.

25 (Recess from 5:01 p.m. until 5:12 p.m.)

1 THE VIDEOGRAPHER: On the record, 5:12 p.m.

2 (Anda-Brown Exhibit 14 was marked for
3 identification.)

4 BY MR. NOVAK:

5 Q. We've had marked for identification purposes
6 Anda-Brown Deposition Exhibit Number 14, which is
7 comprised of a one-page e-mail bearing the Bates
8 Number Anda_Opioids_MDL 543135, and there is a
9 spreadsheet, an Excel spreadsheet, attached to the
10 e-mail that bears the Anda_Opioids_MDL Number
11 543136, which we are conveying electronically and
12 we'll also have up on the screen as we proceed with
13 the questioning.

14 Mr. Brown, Deposition Exhibit Anda-Brown 14
15 is an e-mail that you authored to various officials
16 at both the Department of Justice and also Anda
17 employees?

18 MR. MATTHEWS: Sorry. Do you have a copy
19 for me?

20 MR. NOVAK: Oh.

21 MS. LUND: I think you handed me two.

22 MR. MATTHEWS: Oh, my codefendants stole my
23 copy. I apologize.

24 MS. LUND: In my defense, there's two
25 instead of three.

1 THE WITNESS: Yes, I see it.

2 BY MR. NOVAK:

3 Q. Just so we're clear, this is an e-mail that
4 you authored to the various recipients in the --
5 that are identified in the "to" line?

6 A. That is correct.

7 Q. Okay. And this reflects a list of customers
8 that have been listed as not eligible or shut off?

9 A. Or reinstated.

10 Q. Okay. Can you explain to me how you
11 delineate between a customer whose control
12 privileges have been denied, between that category
13 and one who is no longer eligible?

14 A. Yes. A customer that is denied controls is
15 one who has applied for controls with Anda, first
16 time and they haven't receive controls before,
17 they've asked to purchase controls, and we've said,
18 based on the information that they have -- that they
19 have provided we are not -- we are not comfortable
20 with supplying controls.

21 A customer who has been cut off is one that
22 has been purchasing controls and for reasons that
23 we -- several reasons, some of which we actually
24 discussed earlier in connection with Exhibit 12, we
25 have decided that we are no longer comfortable

1 providing controls.

2 Q. Okay. Why don't we switch screens to the
3 spreadsheet that was attached to your e-mail.

4 A. And, again, I'll elaborate a little bit for
5 context. This was something that was -- again, it's
6 pursuant to the September 10th, 2014, e-mail that
7 Michael Cochrane sent, and this was submitted every
8 time there was an additional customer added or, in
9 some cases, a -- a suspicious order.

10 Q. Okay.

11 A. It's a rolling -- it's -- you know, it's
12 really a rolling list.

13 Q. So the first tab in the spreadsheet that was
14 attached and is part of Anda-Brown Deposition
15 Exhibit 14 is the customer cutoff tab?

16 A. Uh-huh.

17 Q. And these list an array of different Anda
18 customers, many of whom have something denoted in
19 the comments field?

20 A. Uh-huh.

21 Q. Now, when something is denoted in the -- in
22 the comments field as it is in this customer cutoff
23 tab, where would that information be extracted in
24 Anda's systems?

25 A. It would be in the customer notes, in the

1 TNTPS, because the same information is there. Let
2 me again, just for clarification, it's not that it
3 was -- these are special customers who the notes are
4 there for. This list had been provided on an
5 ongoing basis starting in, like, probably 2011, but
6 based upon our -- we just sent it as is.

7 During the meeting that we had in September
8 of 2014 that Michael Cochrane references in
9 Exhibit 12, Valerie Mitchell said, look, this list
10 doesn't really help us because it doesn't tell us
11 why.

12 Now, that was the first time we ever got
13 that feedback, so it isn't as if we ever asked,
14 we're sending this all the time for the three --
15 previous three years, and we thought we were helping
16 or being proactive with the DEA, and they never
17 said, well, there's a problem or there isn't a
18 problem. They just, okay.

19 But when she said, you know, it doesn't
20 really help us because we need more explanation, so
21 we agreed starting -- you know, this was
22 September 10, so you'll notice 9/12/14 there's an
23 explanation --

24 Q. Okay.

25 A. -- and it goes from there. So I just wanted

1 to be clear on that.

2 Q. Let's -- let's look at that line item for
3 9/12/14 --

4 A. Uh-huh.

5 Q. -- which is, I think, line 540 of the
6 customer cutoff section of the spreadsheet. That's
7 for an account whose name is The Health and Beauty,
8 d/b/a Lakeland account, in Ronkonkoma, New York.

9 A. Uh-huh.

10 Q. Okay. And then looking at the Anda comments
11 that are in Column I, it states: Eight of the top
12 10 dispensed pills/tablets are controls, including
13 five strengths of oxycodone, and the customer did
14 not provide an explanation of the reasons for these
15 products being the most highly dispensed.

16 That would have been taken from the customer
17 notes?

18 A. The -- well, let me go back. This and --
19 this sheet and the customer notes are filled in
20 simultaneously.

21 Q. Okay.

22 A. So -- and I was the one who did it, so I can
23 explain to you what I did.

24 Q. Okay.

25 A. Let's say -- and this one, again, without

1 seeing the customer file, I don't know exactly
2 what -- what happened. Okay? But somehow or -- we
3 got updated dispense data, I don't know why, don't
4 if it was -- it was just part of the yearly deal or
5 whether it was, you know, they were asking for
6 increase. I don't know what the reason was. We
7 went back and we compared the previous dispense
8 data, and we said, oh, my gosh, this is not good,
9 we're not comfortable.

10 So I would fill this sheet out, and then I
11 would turn around while -- again, almost
12 simultaneously, push the TPS button and put exactly
13 the same verbiage in. And I would do -- it would
14 just say customer discontinued from controls or
15 customer cut off, reported to DEA. It would have
16 the same notes.

17 And it would verify that this was on this
18 list -- this e-mail was submitted to the DEA.

19 Q. Okay. The e-mail that you wrote to the DEA,
20 that's the first page of Anda-Brown 14, states: The
21 most recent determination was not based on the
22 suspicious order but rather information provided by
23 the customer.

24 A. Uh-huh.

25 Q. How do you know from looking at the

1 spreadsheet that this particular pharmacy -- whose
2 name I forgot unless you scroll back -- Health and
3 Beauty d/b/a Lakeland Pharmacy in New York, that's
4 Anda Account Number 741026, how do you know that
5 this wasn't based upon a suspicious order?

6 A. Because if you go all the way to the end of
7 this sheet, there is a category -- where is it?

8 Hmm.

9 Oh, all right. I do know why. Because it
10 would have said customer -- it would have
11 specifically stated in that comments Anda -- they
12 attempted to order da da da da da and -- oh, no,
13 there is another tab, "Suspicious Orders." This is
14 "Cut Off," "Denied," "Reinstated," "Suspicious
15 Orders." There's four tabs.

16 And if it was a suspicious order, it would
17 be under "Suspicious Order."

18 Q. Is there something in Anda's files with
19 respect to this particular pharmacy that identifies
20 whether they placed orders for controlled substances
21 to Anda?

22 A. If -- I'm sure they did because they were
23 cut off as opposed to being denied. So at some
24 point they did -- they did have orders for controls.

25 Q. Okay. Well, if they had orders for controls

1 and you cut them off because eight of the top ten
2 dispensed pills or tablets are controls, including
3 five strengths of oxycodone, and the customer didn't
4 provide an explanation and the reasons for these
5 products being the most highly dispensed, why
6 weren't they reported as a suspicious order as
7 opposed to simply being reported as a customer who
8 was cut off?

9 MR. MATTHEWS: Objection.

10 A. Again, without seeing the file, I can't -- I
11 don't want to speculate, except in most cases where
12 this happened, they were granted control privileges
13 because of the information they had previously
14 provided.

15 They either sent this data as part of their
16 annual requirement or they sent it because they were
17 asking to purchase something or purchase something
18 in quantities that they hadn't done previously.

19 Chances are -- I mean, I don't know if -- we
20 may or may not have ever sold them oxycodone or any
21 of these items. When we -- when we agreed to sell
22 them product -- and again, without know -- without
23 seeing the file, I can't really, you know, be
24 specific, but in terms of describing our procedures,
25 it had not -- really wasn't a specific order.

1 We got this information and we said we don't
2 really care if they never ordered this stuff from us
3 before, we don't like the data that they've provided
4 that is different from the data that they provided
5 to us previously, and we're not comfortable
6 continuing to sell them controls based upon their
7 dispense patterns. It had nothing to do with an
8 order.

9 Q. How is this distinguished from a controls
10 denied scenario?

11 A. Controls denied is when they apply -- they
12 have not purchased controls. They're applying to
13 purchase controls and we've said, no, we're denying
14 their -- we are -- we are not allowing them to
15 purchase controls based on the information that
16 they've provided.

17 Q. Okay. What would I look to in Anda's either
18 TPS system or O drive to determine whether there had
19 been an order submitted by this customer on or about
20 September of 2014?

21 A. Well, you -- you could look at the TPS.
22 There is ordering history for that customer.

23 Q. Okay. And the ordering history would
24 demonstrate the different instances in which the
25 customer submitted an order for controlled

1 substances?

2 A. Correct.

3 Q. Okay.

4 A. I -- I would -- I would say that in the time
5 I was there, most of the determinations that were
6 made, a customer did not often deal -- did not even
7 deal with products, for the most part, that we were
8 providing. It was more to that particular customer,
9 not providing to other people but providing to that
10 customer.

11 It was -- we looked at the information they
12 were -- they were submitting, and we were not
13 comfortable with their overall either dispense
14 pattern or I'm sure you can find some that says --
15 especially, well, more under the controls denied
16 than under the cutoff. You know, three -- two of
17 their doctors had discipline actions or -- or what
18 have you, so --

19 Q. Now, without running through them, because
20 there are a ton of them --

21 A. Yes, there are.

22 Q. -- the Anda comments in the other -- for --
23 for the other customers where that field Column I is
24 populated, would those also be taken from customer
25 notes?

1 A. All the --

2 MR. MATTHEWS: Objection.

3 A. Again, to -- just to clarify, if they were
4 done simultaneously. Same notes except in the notes
5 section it would say customer -- you know,
6 whatever -- cut off, here is the reason, and they
7 were reported to DEA, but it was done
8 simultaneously.

9 It wasn't like, oh, well, I got this out of
10 the notes. No. The determination was made based on
11 the information and it was placed in two places --
12 or noted in two difference places, this e-mail and
13 then the customer notes.

14 Q. If there is nothing contained in Column I,
15 is that an indication that Anda did not make a
16 determination that there was anything suspicious
17 about that particular customer?

18 A. No.

19 MR. MATTHEWS: Objection.

20 A. As I indicated before, that's where you
21 could look at the notes, because, again, prior to
22 our September 2014 meeting, we didn't put comments
23 in -- in this sheet. We just -- we sent it to DEA.

24 To tell you the truth, we never really
25 received much feedback, or any feedback, for that

1 matter, but when we discussed it at our September
2 meeting and said, look, we're letting you know about
3 customers we have concerns about. And Valerie
4 Mitchell -- nobody else said this, but Valerie said,
5 you know, it doesn't really do us much good if you
6 don't tell us what the reasons are. So we said,
7 okay, we'll tell you the reasons.

8 So from September 10th on, we put the
9 reasons, but anything before September 10th, 2014,
10 we didn't put comments because that's -- we were
11 never asked to do that, and that never really came
12 up from anyone.

13 Q. Had Anda made the determination that these
14 customers were engaging in suspicious orders with
15 other companies?

16 A. Not necessary --

17 MR. MATTHEWS: Objection.

18 A. Not necessarily. We had no way -- we would
19 have no way of knowing about -- as far as orders, we
20 would have no idea.

21 But based on what they're dispensing or
22 based on other factors or other information that
23 they provided, we were not comfortable. Maybe it
24 was -- we don't know if they're fulfilling their
25 corresponding responsibility. Maybe we're just not

1 comfortable with the dispense patterns that they
2 have.

3 And because, again -- I mean, sure, you
4 know, every pharmacy is different, but to be honest,
5 you know, what we -- we were much more comfortable
6 when we saw a pharmacy that had the dispense data
7 that was in our template. We're a lot more
8 comfortable with that mix of product and -- of
9 controls and noncontrols and not seeing oxycodone in

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

15 Q. Now, at the -- the beginning of that answer,
16 you said, quote, we would have no way of knowing
17 about as far as orders. We would have no idea. But
18 based on what they are dispensing or based off of
19 other factors or other information that they
20 provided, we were not comfortable.

21 A. Uh-huh.

22 Q. For these customers, you would have had
23 their dispensing history, correct?

24 A. Uh-huh. Correct.

25 Q. And you would have their order history with

1 Anda?

2 A. Yes.

3 Q. And you would have a filled out customer
4 questionnaire?

5 A. Yes.

6 Q. And you would have a products mix of the
7 percentage of controls being dispensed as compared
8 to noncontrols?

9 A. Yes.

10 Q. And you would have a listing of the
11 physicians who were the top prescribers of
12 controlled products at those pharmacies?

13 A. Yes.

14 Q. Isn't that enough information to give you
15 some idea as to whether they were engaging in
16 suspicious orders?

17 A. We don't know --

18 MR. MATTHEWS: Objection.

19 A. We have -- we have no idea what each order
20 looked like. We don't know how often they're
21 ordering from other people. We don't know what each
22 order is, consists of. We don't know what -- that
23 what their -- what others -- other companies do in
24 terms of either thresholds or due diligence that
25 they do or anything else.

1 So unless -- until we can actually see the
2 orders and see the information, what products and
3 each one are they ordering, what percentages, we
4 have no idea. They list three other distributors in
5 their questionnaire. We don't know what they're
6 ordering from each one. But we do know what we see
7 that they're doing overall.

8 Again, I think we distinguished between --
9 we don't focus -- in this situation, it's not about
10 a particular order. We don't know if the -- from
11 other people what each particular order is, and
12 that, to me, is -- if it's a suspicious order, it's
13 one order that they put in on August 28th and here's
14 the six products that they ordered and they're
15 different from what they ordered three weeks ago.

16 That's not what we -- that's not what we're
17 looking at here. We're looking at are we
18 comfortable with this -- this customer -- these
19 customers could have been ordering fine from us.
20 But -- everything was fine, but we don't like what
21 they're dispensing overall.

22 Q. I -- I didn't ask as to whether what they
23 were ordering from you was fine.

24 A. I know. I know. I understand.

25 Q. I was asking whether you thought you

1 possessed sufficient information to know whether
2 they were engaging in suspicious orders.

3 MR. MATTHEWS: Objection.

4 A. You know --

5 Q. And your position is, based upon all the
6 information that you had in your files, that you
7 didn't know?

8 A. I don't know.

9 MR. MATTHEWS: Objection.

10 A. I don't see the orders. We do not see the
11 individual orders. So without seeing the individual
12 orders that -- from another company. Not -- not --
13 not the quantities per month or per 90 days or
14 anything else, but the specific order and what --
15 and what that -- their patterns are, what their
16 frequency is, or what -- whatever it happens to be,
17 we're not in a position to talk about orders from
18 somebody else.

19 Q. Let's look at line 541, Accurate RX
20 Specialty in Q Gardens, New York.

21 Now, for that entity, the notes for Anda

Category	Percentage
Category 1	85%
Category 2	95%
Category 3	80%
Category 4	60%

1 A. Correct.

2 Q. Now, for that pharmacy, you would have a
3 full due diligence file, correct?

4 A. Yes.

5 Q. And it would include the physicians that
6 were the lead prescribers, and it would include --
7 I'm sorry.

8 Can I get a verbal answer to that question?

9 A. Yes. Yes.

10 Q. And it would include the customer
11 questionnaire?

12 A. Yes.

13 Q. It would include the dispensing data?

14 A. Yes.

15 Q. Both for controlleds and noncontrolleds?

16 A. Yes.

17 Q. It would include the average prescription
18 strength?

19 A. Yes.

20 Q. And from all of that information, you could
21 not make a determination as to whether a pharmacy
22 that has oxycodone 30 as its highest dispensed
23 pill/tablet by five times the next highest dispensed
24 product, and the next highest product was another
25 oxycodone product, that that wasn't a suspicious

1 order?

2 MR. MATTHEWS: Objection.

3 A. Again, without seeing the specific orders,
4 we don't know what combination. We don't know when.
5 We don't know anything about how they're ordering.
6 There's a difference between an individual order,
7 which we don't see -- we don't see -- we only see
8 individual orders from us -- and what they're
9 dispensing and getting from other people. We don't
10 know in which way they're getting it.

11 It would be a real presumption to be -- to
12 be able to say, oh, Cardinal, there are -- they're
13 submitting suspicious orders to Cardinal. We can't
14 do that. We have no information to that impact.
15 We're saying what we see and the determination we
16 make, we are not comfortable continuing to sell
17 controls based on their dispense pattern, not on any
18 particular order.

19 Q. Let's go down to customer line number 559.

20 MR. NOVAK: If we can scroll back to the
21 left and take a look at that one for a moment.

22 Nope, I think you passed it.

23 A. I see it.

24 Q. Mills Pharmacy on 640 Wessel Drive in
25 Fairfield, Ohio.

1 A. Uh-huh.

2 Q. And for that pharmacy, Anda submitted in the

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 contained in their question -- customer

8 questionnaire does not explain this usage.

9 A. Uh-huh. Yes.

10 Q. Again, this would be a pharmacy where you
11 have the dispensing data of what they provided to
12 their customers?

13 A. Yes.

14 Q. Correct?

15 You would have the information --

16 A. Totals. The totals of what they provided.
17 Of overall, to all customers of all pills, et
18 cetera.

19 Q. Yes.

20 A. Yes.

21 Q. Both the controlled products and the
22 noncontrolled products?

23 A. Correct. Correct.

24 Q. So you would have the percentages of each?

25 A. Uh-huh. Yes.

1 Q. You also would have a list of the top
2 prescribers for the controlled substances?

3 A. Uh-huh. Yes.

4 Q. You would have the prescription strengths?

5 A. Yes.

6 Q. You would have the average number of pills
7 per prescription?

8 A. Yes.

9 Q. And with all of that information, you
10 wouldn't be able to determine whether that pharmacy
11 in Fairfield, Ohio, was engaging in suspicious
12 orders?

13 MR. MATTHEWS: Objection.

14 A. Engaging in suspicious orders from other
15 distributors? Ordering from other distributors,
16 suspicious orders? Placing suspicious orders with
17 other distributors?

18 Q. Yes.

19 A. No.

20 MR. MATTHEWS: Objection.

21 A. We don't -- look, just because oxy -- let me
22 give you an example here.

23 Oxycodone APAP 10/325 and oxycodone 30,
24 they're the highest dispensed product. Let's say
25 they're at 15 and 12,000. And the next highest

1 noncontrol is 2,000.

2 Let's just -- I mean, I'm making up numbers,
3 and of course, I'm making up numbers because I don't
4 have any file in front of me, but, theoretically,
5 that customer could order 1,000 or 2,000 oxycodone
6 10/325, 2,000 oxy 30, and then order 300 of 20 other
7 noncontrol products, theoretically. I don't know if
8 that hits Cardinal's system or McKesson's system. I
9 don't know how they do that.

10 Without seeing the order itself -- again,
11 we're talking about specific, individual orders.
12 We're not talking about overall customer
13 eligibility. We're talking about a specific order.

14 There is no capacity that we would --
15 without seeing the specific order, one, we can't
16 make that judgment; and, two, we don't know --
17 it's -- it's another -- it's another -- it's another
18 distributor that we have absolutely no visibility
19 into other than their overall dispense pattern over
20 a 90-day period.

21 So, no, we would have no ability to say
22 any -- we don't even know what date they order on.
23 How would we be able to say a specific order is
24 suspicious?

25 We don't know what dates. This is a 90-day.

1 It could be anywhere within that 90-day period
2 they're ordering this, and we don't know what other
3 products they're ordering with it.

4 So, no, we -- that's -- that's just not
5 something we would ever be able to do, and neither
6 would Cardinal be able to look at that same
7 information and say, oh, they're ordering
8 suspicious -- they're submitting suspicious orders
9 to Anda. They can't do it. It's just not possible
10 based on being able to see specific orders, because
11 we can't.

12 We don't see theirs, and they don't see
13 ours. We see cumulative -- cumulative information.

14 Q. Okay. If there were a pharmacy sitting in
15 Cleveland in Ohio that dispensed a million
16 oxycodone 30 pills and the only other thing they
17 dispensed was a bottle of aspirin on an every month
18 basis, if those orders were being placed by
19 someone else -- with someone else, except for the
20 aspirin that they bought from Anda, is it your view
21 that you would be unable to determine whether they
22 were placing suspicious orders?

23 MR. MATTHEWS: Objection.

24 A. Again, we are notifying the DEA of a
25 customer that we are not comfortable with based on

1 the information that we have, based on the
2 information that we've received, and we're telling
3 them, one, we're not selling to them; two, this is
4 the reason why, and we have concerns.

5 But I don't think there's any -- aside from
6 the inability, unless you can show me some
7 statutory, regulatory, or advisory document that
8 would either require or -- or suggest that one
9 distributor would tell about -- would go to the DEA
10 and say they're ordering -- they're -- and they're
11 making suspicious orders from another distributor,
12 that's -- I just never heard that before, and I
13 don't -- I just don't think it's -- it's within the
14 purview of the industry or it's ever been
15 contemplated that that would happen.

16 Q. And you've never heard of another
17 distributor under similar circumstances reporting on
18 suspicious orders from another distributor?

19 MR. MATTHEWS: Objection.

20 MS. CHARLES: Objection; form.

21 A. I've never heard of that, and I don't know
22 how they could because they don't know what the
23 order is. You're talking about a specific -- when
24 you're doing that, you're talking about reporting a
25 specific order, and without knowing what that order

1 is, that specific order, it's -- I don't see how
2 anyone would be able to do that.

3 Q. So the entire industry could have
4 information about a particular pharmacy that's
5 dispensing absurd amounts of OxyContin or other
6 controlled substances, and your position is the only
7 one that would be able to report them for a
8 controlled substance or a suspicious order is the
9 one for whom they placed the order with?

10 MR. MATTHEWS: Objection.

11 A. That's the only one that knows what the
12 order is, and the DEA knows because they get the
13 ARCOS data.

14 We were saying we have a concern about this
15 customer. Again, we've ceased doing business with
16 them, and we've gone to the DEA and said we have a
17 concern. And they see the ARCOS reports; they see
18 who's -- what they're ordering from other people;
19 and they see the individual orders.

20 I think we went, you know, pretty far in
21 terms of our responsibility. We're not selling and
22 we're reporting them. And to me -- and my own -- my
23 own view, I think it's a lot more valuable to
24 support a customer -- to report a customer than it
25 is maybe one particular or two particular orders.

1 I mean, whether or not Cardinal reported
2 them, I'm not sure it really matters. The DEA has
3 been on notice that this is a bad customer in our
4 mind, and this is why.

5 Q. But not through a suspicious order report?

6 A. No.

7 MR. MATTHEWS: Objection.

8 A. No.

9 When we had suspicion -- when we had orders
10 that we considered suspicious, we reported it as an
11 order. But for the vast majority, it was customers.

12 Q. Let's go to the controls denied tab now.

13 There are a number of pharmacies on the controls

14 denied tab similarly that have entries in the "I"

15 column for -- that explains why the controls were

16 denied.

17 A. Uh-huh.

18 Q. Okay.

19 A. Yes.

20 Q. And let's just take Marlin Pharmacy as an
21 example.

22 A. Yep.

23 Q. The reasons identified in the "I" column are

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 Now, that was the basis upon which you
7 concluded that you would deny selling controls to
8 them.

9 A. Correct.

10 Q. But, again, based upon the information you
11 had, you didn't feel as though you had enough
12 information to report them for suspicious orders?

13 MR. MATTHEWS: Objection.

14 A. They didn't order from us. They didn't
15 place an order. They didn't -- they couldn't place
16 an order, so we had no order to report.

17 Q. Okay. Let's go next to the "Suspicious
18 Orders" tab.

19 A. Okay.

20 Q. Now, there are four orders that are
21 referenced in the suspicious order tab.

22 One for Orchard Drug in North Salt Lake,
23 Utah.

24 A. Yes.

25 Q. One for Cambridge -- Cambridge Springs

1 Pharmacy in Cambridge Springs, Pennsylvania.

2 One for Bi-Mart Corp Medford in Medford,
3 Oregon.

4 A. Yes.

5 Q. And one for Pharmaceutical Services in
6 Silver Spring, Maryland.

7 A. Yes.

8 Q. Those are the only suspicious orders that
9 Anda reported for the reporting period that is
10 reflected in the May 20, 2016, e-mail that you
11 submitted to DEA and Department of Justice
12 officials?

13 A. Yes.

14 Q. Okay. And what was it about these orders
15 that drew you to the conclusion that they were
16 suspicious?

17 A. It was the -- it was the items that they
18 were ordering, the quantities that they were
19 ordering, the combinations that they were ordering.
20 My guess is they probably didn't -- yeah, and -- and
21 I don't know if they ordered those before or not.
22 I'd have to see.

23 But it was the -- it was the items in the --
24 in two of the cases, it was the combination. And in
25 the other cases, it was the actual item. And in the

1 other case, it was hydrocodone that was larger than
2 the previous order and we -- we -- my guess is on
3 that one we might have -- we might have asked for an
4 explanation and we didn't get it. So we didn't get
5 it within 24 hours, the order was deleted, reported
6 as suspicious, and the customer was cut off.

7 MR. MATTHEWS: How are we doing on time?

8 THE COURT REPORTER: Six hours and 19
9 minutes on the record.

10 (Anda-Brown Exhibit 15 was marked for
11 identification.)

12 BY MR. NOVAK:

13 Q. We've had marked for identification purposes
14 Anda-Brown Deposition Exhibit 19.

15 MR. MATTHEWS: 15?

16 MR. NOVAK: Oh, okay. Sorry. 15.

17 THE COURT REPORTER: Tricked you. Sorry
18 about that.

19 BY MR. NOVAK:

20 Q. The front page of which is an e-mail from
21 Tricia Chen to Barbara Aleman with CC's to a number
22 of individuals, including Michael Brown, the subject
23 being "A final compliance docs for meeting
24 tomorrow." And then attached to it is a PowerPoint
25 presentation, in addition to a number of other

1 documents.

2 But I wanted to start with the PowerPoint
3 presentation. First, is this a document you would
4 have received back in June 22nd of 2016?

5 A. I would have received it, and I may have --
6 again, not total recollection -- but certainly would
7 have been part of putting it together.

8 Q. Okay. So you participated in the present --
9 or in the preparation --

10 A. Yes.

11 Q. -- of the PowerPoint, at least?

12 A. On at least some of these items, yes.

13 Q. Okay. I'd like to go through a couple of
14 these. First of all, what was the purpose of
15 creating this PowerPoint?

16 A. The purpose was that -- in looking at the
17 attachments, Teva was in the process of
18 determining -- of purchasing Anda and wanted due
19 diligence -- their due -- they wanted to conduct
20 their due diligence on Anda's regulatory compliance.
21 And so these were documents that were put together
22 to explain the -- you know, both history and the
23 current -- the current condition or status of the
24 compliance department.

25 Q. So you were preparing these materials for

1 the benefit of Teva in their performance of due
2 diligence in deciding whether they were going to
3 purchase Anda?

4 A. Correct.

5 MR. MATTHEWS: Objection.

6 A. To my -- it was part of their -- their due
7 diligence in the purchase. Whether that impacted
8 their ability -- their decision or not, I don't
9 know.

10 Q. Okay. I'd like to start with the compliance
11 organizational chart that is on the Bates page
12 ending with the digits 2045.

13 And this includes an organizational chart
14 for -- is it the regulatory compliance portion of
15 the company?

16 A. Yes.

17 Q. Okay. And it sets out both you as the
18 director of compliance and Emily Schultz as the
19 associate direct -- director of regulatory
20 compliance?

21 A. Yes.

22 Q. And as of this time, you had five employees
23 that reported to you?

24 A. Yes.

25 Q. And they were James Gatto, Latoya Samuels,

1 Mary Barber, John Kincaide, and Tasha Campbell?

2 A. That is correct.

3 Q. Okay. And the individuals who were tasked
4 with performing the due diligence on transactions
5 and new customer applications for controlled
6 substances would have been these five individuals in
7 addition to yourself?

8 A. That is correct.

9 Q. Okay. Now, the sales of controlled
10 substances are broken down here by warehouse. Are
11 these the figures that are accurate for 2016 as to
12 sales of controlled substances coming out of each of
13 the three Anda distribution facilities?

14 MR. MATTHEWS: Objection.

15 A. As far as I can recall. And I don't have --
16 know the dates. It doesn't say which -- you know,
17 what -- what time frame or up to what time -- what
18 time period, but this was -- you know, this was --
19 this was -- this was data that we, you know,
20 received or that we collected internally and placed
21 it. I just don't know the time period.

22 Q. Okay. So you don't know whether this is a
23 full year or just the sales --

24 A. Partial.

25 Q. -- the partial sales for 2016?

1 A. Correct. Yeah. This was -- let's see --
2 June 22nd. I don't know if it was June 1st. I --
3 I'm not sure. I mean, it says 2016 total sales. I
4 don't know -- again, I don't have independent
5 knowledge of -- of what the cut-off date was.

6 Q. Okay. Now, the -- the figure referenced for
7 the Ohio distribution center of control II --
8 Schedule II items is 48 million and some change; is
9 that correct?

10 A. That's what the -- that's what the document
11 says.

12 Q. Okay. Do you have an independent
13 recollection as to what the typical Anda sales say
14 for a full calendar year around this time for
15 Schedule II controlled products were?

16 MR. MATTHEWS: Objection.

17 A. I can't say that I have an independent
18 recollection.

19 Q. Okay. Does 48 million sound about right for
20 half a year?

21 MR. MATTHEWS: Objection.

22 A. You know, I -- I really don't know myself.
23 I couldn't really hazard a guess.

24 Q. Okay. Now, Slide 6 makes reference to
25 21CFR1301.74 and sets out some requirements for

1 controlled substance compliance.

2 I -- I take it you agree with the statement
3 that is contained on Slide 6?

4 A. That's what the regulation says. I mean,
5 the statement is that, yes, that's the regulation
6 and that's the requirement, yes.

7 Q. On the dispensing data that we reviewed for
8 the -- for the various customers on the cut-off list
9 that Anda submitted to the Department of Justice,
10 what prevented you from coming to the conclusion
11 that those customers had engaged in orders deviating
12 from a normal pattern?

13 MR. MATTHEWS: Objection.

14 A. They may not have been our orders. They may
15 not have been from us. I don't know that. Without
16 looking at the customer's actual history, I don't
17 know if their orders from us deviated in any way. I
18 don't know what they were ordering from us.

19 That's -- those are -- those conclusions
20 summarized the top products that they were
21 dispensing, period. We don't -- I don't -- without
22 -- without having that customer file in front of me
23 and all the information we look at, I would have no
24 way of knowing what they -- what they ordered from
25 us.

1 Q. I didn't ask about whether they ordered it
2 from you. I asked simply whether you possess
3 sufficient information to conclude that they were
4 engaging in orders deviating from a normal pattern.

5 MR. MATTHEWS: Objection.

6 A. Again, as we discussed earlier, the only way
7 I would know that -- the only orders I can see are
8 what they were ordering from us. And without seeing
9 their order history, I would have no idea if they
10 were deviating from a pattern or not.

11 Q. I'll skip Slide 7.

12 Now, in Slide 13, the PowerPoint
13 presentation that was created for Teva states: Thus
14 far, in 2016, over 26,000 orders have been held for
15 review. Of these, one order was determined to be
16 suspicious and was reported to the DEA. The
17 customer was immediately denied control privileges.

18 Did you participate in authoring that slide?

19 A. I probably did, because I had knowledge of
20 it.

21 Q. Okay. For the other 25,999 held orders, who
22 would have performed the due diligence in 2016?

23 A. Any one of the six people, including myself,
24 who reviewed -- who were responsible for reviewing
25 each held order.

1 Q. Okay. So between the six of you, you would
2 have been responsible for approximately 4,333 orders
3 apiece if you were just divvying them up equally
4 among the six?

5 A. If that was the case, yes.

6 Q. Over a six-month period?

7 A. Over a six-month period.

8 Q. So 722 orders a month apiece for each of the
9 compliance members?

10 A. If that's what the math -- if that's what
11 the math averages out to, yes.

12 Q. Okay. And the due diligence that would be
13 performed for roughly 722 orders that were held per
14 person in -- in your compliance team, those would be
15 all of the due diligence steps that we reviewed in
16 SOP 40?

17 A. That's correct.

18 Q. I think that's all I have for Anda-Brown 15.

19 MR. NOVAK: Do you want to take a quick
20 break?

21 THE VIDEOGRAPHER: Off the record, 6:03 p.m.

22 (Recess from 6:03 p.m. until 6:14 p.m.)

23 THE VIDEOGRAPHER: On the record, 6:14 p.m.

24 (Anda-Brown Exhibit 16 was marked for
25 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked for identification purposes
3 Deposition Exhibit 16, which is comprised of an
4 e-mail -- a two-page e-mail -- or I should say an
5 exchange of e-mails -- between Vicki Mangus and
6 various people within Anda and then Robert Brown who
7 apparently forwarded the e-mail to Michael Cochrane.

8 A. Just -- just to clarify, the people that
9 it's -- that it is to, her e-mail, are all -- all
10 Walgreens people. The only other Anda person other
11 than myself who is cc'd is Bill Versosky. Everyone
12 else that -- the line "to," those are all -- those
13 are all people from Walgreens.

14 Q. Okay. What is Vicki Mangus' position within
15 Anda?

16 A. At that time or now?

17 Q. At that time.

18 A. National Account Manager.

19 Q. And what was Mr. Versosky's responsibility?

20 A. He was Vice President of Sales.

21 Q. Okay.

22 A. So Vicki reported to him.

23 Q. Okay. Now, you -- I think we've discussed
24 earlier today that Walgreens was an account for
25 which Anda was the exclusive secondary distributor;

1 is that correct?

2 A. It ultimately became. I don't -- it not --
3 ultimately, it became -- Anda became the exclusive
4 secondary, yes. Not at this time. This was the
5 time of analysis, but yes.

6 Q. And was -- would this document have been
7 prepared at a time when Anda was attempting to
8 obtain that sole secondary supplier status with
9 Walgreens?

10 A. No. It was at a time when Walgreen -- when
11 Anda was making a determination to see if it was --
12 if it was willing to ship controls.

13 If I recall -- and this is -- again, I don't
14 necessarily remember the whole series of events --
15 but they had some issues with some stores. And I
16 think, if I recall, Cardinal -- they were going to
17 transition to another primary. And -- and they
18 needed someone to at least, you know, provide
19 controls in the interim.

20 So not -- not sole -- not the primary but
21 still somewhat as a source of controls while they
22 were transitioning to the primary.

23 Q. Now, Ms. Mangus' e-mail states in part:
24 Team Walgreens, as promised, I've attached a summary
25 dashboard report showing controls by state. The

1 criteria utilized for this report is as follows: If

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

13 What is -- what are the significance of

14 those particular features that she identifies?

15 MR. MATTHEWS: Objection.

16 A. We -- we had -- and I can't remember how

17 many stores -- several thousand to review. And what

18 we said was if they -- if -- if any store hit any of

19 the criteria that we listed here, we would need

20 significant additional information beside -- we got

21 their dispense report. That was the first thing we

22 got. So obviously we derived the findings from the

23 dispense reports from each location, and then we

24 said if we came -- we were trying to do this in a --

25 sort of a -- you know, a systemic way that would let

1 us see the kings -- the things we were really
2 concerned about down to the store level and
3 determine what steps to take next, and these are the
4 criteria.

5 So if you hit any one of these criteria, we
6 would need a more extensive questionnaire and -- and
7 most likely -- and I can't remember if it was at
8 this time or maybe a month later -- the doctors,
9 the -- the control prescribers, the patient
10 conditions for the people using their controls and
11 whether they were on a -- on a treatment plan.

12 We had separate information that we gathered
13 from -- any store that fell within any of those
14 criteria.

15 Q. Okay. Now, Vicki's e-mail continues to
16 state that, under the Walgreens state analysis,
17 59 percent of all Florida stores will require a
18 completed questionnaire.

19 Is that based upon the criteria that we've
20 just discussed?

21 A. Yes.

22 Q. Okay. Don't all stores require a completed
23 questionnaire?

24 A. Well, there are some cases of chains -- of
25 chains where we still get the dispense data for

1 every one, but there are some cases where if the
2 question -- if the information is the same, if they
3 have the same procedures, if they have similar
4 percentages of control/noncontrol, if, you know,
5 they operate in the same way -- and we've had this
6 with other chains -- that we would not make them
7 fill out a four-page, five-page questionnaire. We
8 would get the commonality, and then we'd focus in on
9 other questions that we may have.

10 But where stores deviated, then we want the
11 full questionnaire. We want the full four- or
12 five-page questionnaire.

13 Q. Okay. During the time that you were at
14 Anda, did you ever report Walgreens to the DEA as
15 having specific stores for which you refused
16 controls?

17 A. There were stores that we did not -- I'm
18 trying to remember if we actually -- I mean, I know
19 there were stores that we -- we failed -- that we
20 refused to -- to service. But, to tell you the
21 truth, I can't recall if they were actually reported
22 to the DEA.

23 At the time, very, very frankly, I was not
24 running that report. I kind of took that over in
25 2014. So I don't really -- I just don't remember if

1 that was the case.

2 Q. When you say "the report" in that answer,
3 you're referring to the report that was made to the
4 DEA?

5 A. Correct.

6 Q. The one that, after September 10 of 2014,
7 you were identified as being responsible for, at
8 least separately supporting the suspicious orders?

9 A. Well, yeah. I mean, as -- I was the one
10 who -- after September 10th, I was the one who did
11 it all. It just made more sense. So I did -- I
12 just included those -- included the additional
13 information points, but I was the one who took over
14 that report.

15 Q. Who was it prior to September 10 of 2014 --

16 A. Emily Schultz.

17 Q. -- that prepared those reports?

18 A. Oh, I'm sorry.

19 Emily Schultz.

20 Q. Okay. And -- and you don't recall whether
21 there were any Walgreens stores that were ever
22 reported to the DEA as -- as stores that you had cut
23 off?

24 A. Well, we had -- no. You mean denied, not
25 cut off.

1 Q. Okay. Denied.

2 A. I don't recall.

3 Q. How about cut off?

4 A. We -- I -- to my -- to my knowledge, we
5 didn't cut them -- we didn't cut stores off. We got
6 data on a regular basis, but we did not cut them
7 off. And part of the reason was that -- let's see.

8 This was November 20, 2012. By the time we
9 really started servicing these stores in -- in
10 2000 -- full blast, 2013, they had a full -- they
11 didn't have a full compliance team, but they had a
12 full compliance team. And what did they call it?

13 They had a program that they used for all
14 stores. Oh, shoot. I know it's -- I know I've had
15 it. It's something about proper dispensing
16 practices. They called it -- it was actually where
17 each store had to fill out the information in order
18 for -- in order for their own -- in order for their
19 own compliance department to approve them to even
20 come to us for -- for controls.

21 I mean -- I mean, they wouldn't -- if they
22 weren't -- if they weren't doing the proper
23 practices, they wouldn't even allow them to buy from
24 us.

25 I'm trying to remember what they called it.

1 Vicki would probably know, and I just can't recall
2 what it was.

3 Q. Looking at the second page of the e-mail
4 from Vicki Mangus to the Walgreen team with -- with
5 you cc'd, it makes reference to a third or
6 approximately one-third of Walgreens stores have oxy

■ [REDACTED]

■ [REDACTED]

9 Did that concern you?

10 A. Yes. That's why they were -- that's why
11 they were identified.

12 Q. What was your understanding, based upon
13 additional review, that they were selling that much
14 oxy at that many Walgreens stores?

15 MR. MATTHEWS: Objection.

16 A. To be honest, I don't even know -- I
17 identified those as stores that if they maintained
18 the same types of dispense patterns, we would not
19 service.

20 But, again, this was November, and I
21 think -- I don't think we started servicing them
22 until -- I want to say maybe -- even started
23 servicing Walgreens at all until probably May or
24 June, something like that, I think.

25 But at that time, when we got this data,

1 which is -- and data is always a snapshot -- like I
2 said, those -- those stores, we probably would not
3 -- we would not service based on that.

4 Q. Okay. So there were a number of Walgreens
5 stores, then, that you decided not to service?

6 A. At that time, yes. And, again, it -- I
7 believe again that they underwent, in the next six,
8 eight months, significant changes in their -- in
9 their compliance, in their -- in their review store
10 by store.

11 And I think that, if I recall, that a lot of
12 the stores underwent significant changes in their
13 dispense patterns.

14 Q. So your refusal to provide controls to a
15 number of the stores back at that time would be
16 recorded as controls denied in the spreadsheets that
17 you maintained for the different companies?

18 A. Actually, there were spreadsheets, but
19 because -- this was frankly -- frankly, this
20 particular exercise, so to speak, was not I'm -- I
21 want to -- I want to get controls.

22 It was we're looking to Anda, would you
23 service us, so we're going to -- we're going to give
24 you preliminary information to see if you would even
25 consider servicing Walgreens and tell us does it

1 even make sense. Because if you reject enough of
2 our stores and you're telling us you'll never
3 service us, we'll go somewhere else.

4 So it wasn't like, oh, I'm applying for
5 controls. It was like -- it was like two steps
6 before I'm applying for controls. We want -- we
7 want you -- we know -- you know, we know compliance
8 has to approve these. Before we go too far down the
9 line and look at any contracts or look at any
10 business arrangements, we want to see what -- what
11 would even happen here based on our current status.

12 And so we're going to give you information
13 that we normally don't share, but we're going to
14 give it and you tell us what -- what you think.

15 Q. So they provided preliminary information to
16 Anda --

17 A. Yes.

18 Q. -- to get a gut reaction as to whether they
19 would have compliance issues based on their
20 dispensing data?

21 A. Correct.

22 MR. MATTHEWS: Objection.

23 A. Yes. That's --

24 Q. And ultimately they did become the exclusive
25 secondary supplier or -- Anda did become --

1 A. Yes.

2 Q. -- the exclusive secondary supplier?

3 A. Yes.

4 Q. Do you know when that was?

5 A. I want to say -- exclusive? -- I don't know
6 if it was 2014 or -- I don't -- the end of 2013 or
7 the beginning of 2014 or sometime in 2014.

8 I don't know the exact date, but there
9 was -- there was a lot -- this was -- this was the
10 first initial step in this thing, because they
11 were -- they were having some -- some issues and
12 they were frankly a little desperate and they were
13 looking for someone.

14 We said we don't care how desperate. We're
15 going -- this is going to -- whatever you have to
16 do, you have to do, but we're going for do what we
17 have to do before we rush into anything.

18 Q. Okay. For purposes of reviewing the due
19 diligence that was performed for Walgreens stores
20 once they ultimately received control authorization,
21 those would similarly be contained in the same
22 places that we've talked about for the other retail
23 pharmacies?

24 MR. MATTHEWS: Objection.

25 A. To my knowledge -- and, again, I haven't

1 been there in a couple of years -- but we did retain
2 Walgreens' individual store data, store-by-store
3 store information in the O drive under Walgreens.

4 Q. Okay. So there is dispensing data in the O
5 drive. There is maybe a modified customer
6 questionnaire to reflect the fact that it's a big
7 chain?

8 A. Yes.

9 Q. And then all of the other information that
10 we've gone through that would comply with SOP 28,
11 SOP 40, and SOP 45, would be compiled and retained
12 for Walgreens?

13 A. Yes. I'll just make one note: They had the
14 same procedures for every store, so we didn't get
15 thousands of copies --

16 Q. Right.

17 A. -- of the same one.

18 And, frankly, pretty much every Walgreens
19 looks the same inside, so we didn't get pictures of
20 each store, of each Walgreens. So we got -- we did
21 get pictures of what a Walgreens store looked like,
22 but we didn't get 8,000 or however many there were
23 because they pretty much do look alike.

24 Q. Have you ever -- to your knowledge, has Anda
25 ever submitted a suspicious order report to the FDA

1 for any chain pharmacy?

2 A. Did you say FDA or DEA?

3 Q. DEA. Thank you.

4 A. There is one for Bi-Mart that was on there,
5 yes.

6 Q. Okay. Other than the Bi-Mart one, any for
7 Walgreens?

8 A. Not to my knowledge, no. No, I don't recall
9 any.

10 Q. Any for Publix?

11 A. No.

12 If I may add, in the times we met with the
13 DEA, they told us Publix is the -- like a gold
14 standard for -- for how they handle controlled
15 substances.

16 And, as I mentioned, even in our exit
17 interview in 2015, the DEA representative said, you
18 know, you don't even need due diligence on the
19 Moffitt Center. You know what they do. And we just
20 want to make sure that good patients who need
21 controls that really have conditions that warrant it
22 are getting it and they're not held up because, you
23 know, they're being denied to legitimate patients.

24 And they used that as an example.

25 Q. We've gone through a number of different

1 databases or portals that are used by Anda.

2 One that we haven't touched upon. Have you
3 heard of the Cognos system?

4 A. Yeah. I didn't use it that much. I
5 think -- I think other people did for data -- for
6 data -- you know, for -- for like doing reports. I
7 didn't really do reports. That was, like I say,
8 mostly Sabrina and Latoya. But they did use Cognos,
9 you know, to, you know, capture historic data,
10 either cumulate it, break it out, et cetera.

11 Q. Okay. What -- what is Cognos? I don't even
12 know.

13 A. It's -- it's a -- it's a -- it's data
14 repository. And, frankly, I can't really tell -- I
15 can't really tell you much about it because I didn't
16 really use it on a daily basis. I don't think I --
17 I'm trying to remember myself how it -- how I -- I
18 don't think I -- I don't think I used it very much.

19 Q. And what was the purpose that they used it
20 for?

21 A. They used it to file reports.

22 So, for example, the report that I -- that
23 Sabrina sent me about the customers, the one that we
24 referred to earlier, she -- she might have -- how
25 many -- you know, what do they -- what do they

1 order, what's the percentage of controls, what
2 they've done.

3 And she was able to utilize that to get, you
4 know, historic data, cumulative data, things of that
5 nature.

6 Q. Okay.

7 MR. NOVAK: Take a quick break.

8 THE VIDEOGRAPHER: Off the record, 6:33 p.m.

9 (Recess from 6:33 p.m. until 6:37 p.m.)

10 THE VIDEOGRAPHER: On the record, 6:37 p.m.

11 BY MR. NOVAK:

12 Q. Mr. Brown, when did you leave Anda?

13 A. January 2017.

14 Q. Okay. What were the circumstances that led
15 to your departure?

16 A. Following the purchase of -- of Anda by
17 Teva, Teva announced that they would require
18 significant position reductions throughout their --
19 all of their entities, and I think they were
20 shooting for 25 percent reduction in -- in the
21 workforce. And so Anda was one of those that --
22 that really -- it was affected and my position was
23 eliminated.

24 Q. Okay.

25 A. Along with other members of the compliance

1 department as well.

2 Q. All right. Do you have an understanding as
3 to what the compliance staffing for the suspicious
4 order monitoring is for Anda today?

5 A. I -- I don't.

6 Q. Do you know how many employees they have?

7 A. I really don't. I don't know if they've --
8 I mean, when I left, I mean, there were -- of the
9 six -- of the six dedicated people, three were left,
10 but I don't know if they've, you know, they had --
11 if they -- if they mingled the two facets, the
12 licensing and suspicious order, and they have some
13 people who are working on that. So I really don't
14 know. I don't know how that worked.

15 Q. Okay.

16 MR. NOVAK: That's all I have.

17 MR. MATTHEWS: Anyone have anything?

18 I actually have a few questions.

19 Do I need to move?

20 THE VIDEOGRAPHER: That's up to you.

21 MR. MATTHEWS: I'm going to stay here.

22 CROSS-EXAMINATION

23 BY MR. MATTHEWS:

24 Q. Mr. Brown, I want to follow up on a few
25 questions. My name is James Matthews, as you know.

1 I represent you at this deposition today, and I
2 represent Anda. I have a few questions I want to
3 follow up on.

4 Early in the day, you were asked some
5 questions about the know your customer idea, and you
6 used the word "required" with respect to the know
7 your customer diligence.

8 Could you explain how you meant the word
9 "required" with respect to know your customer?

10 A. We were advised in -- in face-to-face
11 meetings with our DEA representatives here in
12 Florida and at DEA conferences that there was an
13 expectation that a registrant would -- would know
14 who they're selling controls to. There is certainly
15 nothing in any statute or -- or regulation that
16 sets -- that uses -- that either uses that language
17 or sets it as a requirement.

18 Q. Also during the day you were asked some
19 questions about reports submitted by Anda to DEA
20 which listed, among other things, customers that
21 Anda had denied controlled substances sales to or
22 had cut off.

23 And you mentioned, do you recall, that one
24 of the DEA agents that you met with told you that
25 those reports were not helpful.

1 Do you remember that testimony?

2 MR. NOVAK: Objection.

3 A. Yes. Yes.

4 Q. Okay. Would you explain what you meant when
5 you testified that DEA agents told you those reports
6 were not helpful?

7 MR. NOVAK: Objection.

8 A. Well, specifically in our September 2014
9 meeting, we were discussing with all of the DEA
10 representatives who were present of the different
11 aspects of our customer due diligence, suspicious
12 order monitoring, et cetera, our entire compliance
13 program. And we said among those are -- as we've
14 been reporting for quite some time on customers who
15 were either cut off or denied or, in fact,
16 reinstated.

17 And Valerie Mitchell said, well, it would be
18 a lot more helpful if you would include the reasons.
19 We -- we don't really have the ability to utilize
20 those as much if -- but we would -- it would be
21 much -- we don't have the ability to utilize them in
22 their present format, but if you included additional
23 specific information, it would be -- it would be
24 helpful.

25 Q. Was it your understanding that DEA was

1 dissatisfied with the reports?

2 MR. NOVAK: Objection.

3 A. No.

4 Q. Was it your understanding that DEA believed,
5 or Ms. Mitchell in particular believed, that the
6 reports were inadequate in any respect?

7 MR. NOVAK: Objection.

8 A. No.

9 Q. With that in mind -- withdrawn.

10 MR. MATTHEWS: I don't have any further
11 questions.

12 MR. NOVAK: I think we're done.

13 MR. MATTHEWS: Great.

14 THE WITNESS: How much time was left?

15 THE VIDEOGRAPHER: Off the record, 6:43 p.m.

16 (Whereupon, the deposition concluded at
17 6:43 p.m.)

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1 C E R T I F I C A T E

2 I, SUSAN D. WASILEWSKI, Registered
3 Professional Reporter, Certified Realtime Reporter
4 and Certified Realtime Captioner, do hereby
5 certify that, pursuant to notice, the deposition of
6 ROBERT BROWN was duly taken on Monday,
7 December 3, 2018, at 9:26 a.m. before me.

8 The said ROBERT BROWN was duly sworn by me
9 according to law to tell the truth, the whole truth
10 and nothing but the truth and thereupon did testify
11 as set forth in the above transcript of testimony.
12 The testimony was taken down stenographically by me.
13 I do further certify that the above deposition is
14 full, complete, and a true record of all the
15 testimony given by the said witness, and that a
16 review of the transcript was requested.

17

18

19 Susan D. Wasilewski, RPR, CRR, CCP, CMRS, FPR, CCR
20 (The foregoing certification of this transcript does
21 not apply to any reproduction of the same by any
22 means, unless under the direct control and/or
23 supervision of the certifying reporter.)

24

25

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it. It will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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2 E R R A T A
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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby
acknowledge that I have read the foregoing pages, 1
through 278, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in form or substance, if any,
noted in the attached Errata Sheet.

ROBERT BROWN

DATE

Subscribed and sworn to before me this
____ day of _____, 20____.

My Commission expires: _____

Notary Public

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